

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1319

**Introduced by Senator Pavley
(Coauthors: Senators Lara and Wolk)**

February 21, 2014

~~An act to amend Sections 8574.4, 8574.7, 8574.8, 8670.2, 8670.3, 8670.5, 8670.7, 8670.8, 8670.8.3, 8670.8.5, 8670.9, 8670.12, 8670.14, 8670.19, 8670.25, 8670.25.5, 8670.26, 8670.28, 8670.29, 8670.30.5, 8670.31, 8670.32, 8670.33, 8670.34, 8670.35, 8670.36, 8670.37, 8670.37.5, 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.55, 8670.37.58, 8670.40, 8670.42, 8670.47.5, 8670.48, 8670.48.3, 8670.49, 8670.50, 8670.51, 8670.53, 8670.54, 8670.55, 8670.56.5, 8670.56.6, 8670.61.5, 8670.62, 8670.64, 8670.66, 8670.67, 8670.67.5, 8670.69.4, and 8670.71 of, to add Sections 8670.32.5, 8670.40.5, 8670.90, and 8670.95 to, and to repeal Section 8670.69.7 of, the Government Code, relating to oil spills.~~

An act to amend Section 5654 of the Fish and Game Code, to amend Sections 8574.4, 8574.7, 8574.8, 8670.2, 8670.3, 8670.5, 8670.7, 8670.8, 8670.8.3, 8670.8.5, 8670.9, 8670.12, 8670.14, 8670.19, 8670.25, 8670.25.5, 8670.26, 8670.27, 8670.28, 8670.29, 8670.30.5, 8670.31, 8670.32, 8670.33, 8670.34, 8670.35, 8670.36, 8670.37, 8670.37.5, 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.55, 8670.37.58, 8670.40, 8670.42, 8670.47.5, 8670.48, 8670.48.3, 8670.49, 8670.50, 8670.51, 8670.53, 8670.54, 8670.55, 8670.56.5, 8670.56.6, 8670.61.5, 8670.62, 8670.64, 8670.66, 8670.67, 8670.67.5, 8670.69.4, and 8670.71 of, to add Sections 8670.40.5 and 8670.95 to, and to repeal Section 8670.69.7

of, the Government Code, to amend Section 449 of the Harbors and Navigation Code, to amend Sections 46002, 46006, 46007, 46010, 46013, 46017, 46023, 46028, and 46101 of, to repeal Sections 46008, 46014, 46015, 46016, 46019, 46024, and 46025 of, and to repeal and add Sections 46011, 46018, and 46027 of, the Revenue and Taxation Code, and to amend Section 13272 of the Water Code, relating to oil spills, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Pavley. Oil spills: oil spill prevention and response.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law directs the Governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill contingency plan to add a marine oil spill contingency planning section containing specified elements, including an environmentally and ecologically sensitive areas element. Existing law also requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection of coastal and marine waters. Existing law imposes various administrative civil penalties on a person that violates specified provisions of the act based on whether it was an oil spill or an inland oil spill.

This bill would generally expand the act and the administrator's responsibilities relating to oil spills to cover all waters of the state, as defined. By expanding the scope of crimes within the act, the bill would impose a state-mandated local program. The bill would direct the Governor to require the administrator to amend the California oil spill contingency plan to provide for the best achievable protection of all state waters, not solely coastal and marine waters, and to submit the plan to the Governor and the Legislature on or before January 1, 2017. The bill would require the regulations to provide for the best achievable protection of all waters and natural resources of the state. The bill, for

purposes of administrative civil penalties, would no longer distinguish between an oil spill and an inland oil spill, subjecting all persons to the oil spill provisions. The bill also would revise various definitions within that act, and would make other conforming and technical changes.

(2) Existing law requires the administrator, upon request by a local government, to provide a program for training and certification of a local emergency responder designated as a local spill response manager by a local government with jurisdiction over or directly adjacent to waters of the state.

This bill would make the program optional at the discretion of the administrator.

(3) Existing law requires the administrator to offer grants to a local government with jurisdiction over or directly adjacent to marine waters to provide oil spill response equipment to be deployed.

This bill would instead authorize the administrator to offer the grants to a local government with jurisdiction over or directly adjacent to state waters.

(4) Existing law requires the administrator, within 5 working days after receipt of a contingency plan, prepared as specified, to send a notice that the plan is available for review to the Oil Spill Technical Advisory Committee.

This bill instead would require the administrator, within 5 working days after receipt of a contingency plan, to post a notice that the plan is available for review.

(5) Existing law requires the administrator to establish a network of rescue and rehabilitation stations for sea birds, sea otters, and marine mammals affected by an oil spill in marine waters.

This bill instead would require the administrator to establish a network of rescue, as specified, for wildlife injured by oil spills in waters of the state, including sea otters and other marine mammals. The bill also would authorize the administrator to establish additional stations or facilities in the interior of the state for the rescue and rehabilitation of wildlife affected by inland spills.

(6) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement oil spill prevention activities, but not to exceed \$0.065 per barrel of crude oil or petroleum products and, beginning January 1, 2015, to an amount not to exceed \$0.05, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into

the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

This bill instead would require the administrator to annually determine the fee in an amount sufficient to pay the reasonable regulatory costs of specified oil spill prevention activities. The bill would delete the provision that reduces the fee beginning on January 1, 2015. The bill would additionally impose this fee on a person owning crude oil at the time the crude oil is received at a refinery, as specified, by any mode of delivery that passed over, across, under, or through waters of the state, whether from within or outside the state. The bill would authorize the Director of Finance to augment a specified appropriation in the Budget Act of 2014 for the reasonable costs incurred by the State Board of Equalization related to the collection of the oil spill prevention and administration fee, as specified, thereby making an appropriation.

This bill would require every person who operates an oil refinery, marine terminal, or a pipeline to register with the State Board of Equalization.

(7) Existing law imposes a uniform oil spill response fee on specified persons, except specified independent crude oil producers, owning petroleum products during any period that the Oil Spill Response Trust Fund contains less than a designated amount. The money in the fund is continuously appropriated for specified purposes, including, to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as specified.

The bill would delete the fee exception for independent crude oil producers, and would delete the provision authorizing the moneys in the fund to be used to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife. The bill would authorize moneys in the fund to be used to respond to an imminent threat of a spill. By expanding the purposes of a continuously appropriated fund, the bill would make an appropriation.

(8) Existing law, until June 30, 2014, provides that if a loan or other transfer of money from the Oil Spill Response Trust Fund to the General Fund pursuant to the Budget Act reduces the balance of the fund to less than or equal to 95% of the designated amount, the administrator is not required to collect oil spill response fees if the annual Budget Act requires the transfer or loan to be repaid (1) to the fund with interest

calculated at a rate earned by the Pooled Money Investment Account and (2) on or before June 30, 2014.

This bill would extend that date to June 30, 2017, and would provide that these provisions would be repealed on July, 1, 2017.

(9) Existing law establishes the Oil Spill Technical Advisory Committee to provide public input and independent judgment of the actions of the administrator. The committee is composed of 10 members.

This bill would increase the number of members from 10 to 14 and would require the Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems, and also would require the Governor to appoint two additional members, with one having knowledge of the railroad industry and another having knowledge of the oil production industry.

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(1) The Lempert-Keene-Scastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law directs the Governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill contingency plan to add a marine oil spill contingency planning section containing specified elements, including an environmentally and ecologically sensitive areas element. Existing law also requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection, as defined, of coastal and marine waters.~~

~~This bill would generally expand the act and the administrator's responsibilities relating to oil spills to cover all waters of the state. By expanding the scope of crimes within the act, the bill would impose a state-mandated local program. The bill would direct the Governor to require the administrator to amend the California oil spill contingency~~

~~plan to provide for the best achievable protection of all state waters, not solely coastal and marine waters, and to submit the plan to the Governor and the Legislature on or before January 1, 2017. The bill would require the regulations to provide for the best achievable protection of all waters and natural resources of the state. The bill would also revise various definitions within that act, and would make other conforming and technical changes.~~

~~(2) Existing law, until January 1, 2015, requires the administrator to develop and implement a screening mechanism and a comprehensive risk-based monitoring program for inspecting the bunkering and lightering operations of vessels at anchor and alongside a dock to ensure that bunkering and lightering operations that pose the highest risk of a pollution incident are identified and are routinely monitored and inspected.~~

~~This bill would delete the January 1, 2015, repeal date for these requirements. The bill would require the administrator to develop and implement a screening mechanism and comprehensive risk-based monitoring program for inspecting nonvessel handling and transport of oil to ensure that those operations that pose the highest risk of a pollution incident are identified and are routinely monitored and inspected.~~

~~(3) Existing law requires the administrator to offer grants to a local government with jurisdiction over or directly adjacent to marine waters to provide oil spill response equipment to be deployed.~~

~~This bill would instead require the administrator to offer the grants to a local government with jurisdiction over or directly adjacent to state waters.~~

~~(4) Existing law requires the administrator, within 5 working days after receipt of a contingency plan, prepared as specified, to send a notice that the plan is available for review to the Oil Spill Technical Advisory Committee.~~

~~This bill would instead require the administrator, within 5 working days after receipt of a contingency plan, to post a notice that the plan is available for review. The bill would require the California Environmental Protection Agency and the Office of Emergency Services to review the plans for facilities and local governments located outside of the coastal zone.~~

~~(5) Existing law requires the administrator to establish a network of rescue and rehabilitation stations for sea birds, sea otters, and marine mammals affected by an oil spill in marine waters.~~

This bill would instead require the administrator to establish a network of rescue and rehabilitation stations for wildlife injured by oil spills in waters of the state, including sea otters and other marine mammals. The bill would authorize the administrator to establish additional stations or facilities in the interior of the state primarily for the rescue and rehabilitation of wildlife affected by inland spills.

~~(6) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement specified oil spill prevention activities, but not to exceed \$0.065 per barrel of crude oil or petroleum products and, beginning January 1, 2015, to an amount not to exceed \$0.05, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.~~

This bill would require the administrator to annually determine the fee in an amount sufficient to pay the reasonable regulatory costs of specified oil spill prevention activities, would delete the provision that reduces the fee beginning on January 1, 2015, and would prohibit the fee from exceeding \$0.065 per barrel of crude oil or petroleum products for the year beginning January 1, 2015, and ending December 31, 2015. The bill would additionally impose this fee on a person owning crude oil at the time the crude oil is received at a refinery, as specified, and would require every person who operates an oil refinery, marine terminal, or a pipeline to register with the State Board of Equalization.

~~(7) Existing law imposes a uniform oil spill response fee on specified persons, except specified independent crude oil producers, owning petroleum products during any period that the Oil Spill Response Trust Fund contains less than a designated amount. The money in the fund is continuously appropriated for specified purposes, including, to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as specified.~~

The bill would delete the fee exception for independent crude oil producers, and would delete the provision authorizing the moneys in the fund to be used to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife. The bill would authorize moneys in the fund to be used to respond to an imminent threat of a spill. By expanding the purposes of a continuously appropriated fund, the bill would make an appropriation.

~~(8) Existing law, until June 30, 2014, provides that if a loan or other transfer of money from the Oil Spill Response Trust Fund to the General Fund pursuant to the Budget Act reduces the balance of the fund to less than or equal to 95% of the designated amount, the administrator is not required to collect oil spill response fees if the annual Budget Act requires the transfer or loan to be repaid (A) to the fund with interest calculated at a rate earned by the Pooled Money Investment Account and (B) on or before June 30, 2014.~~

~~This bill would extend that date to June 30, 2017, and would provide that these provisions would be repealed on July 1, 2017.~~

~~(9) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act prohibits a person from operating a marine facility, as defined, unless the owner or operator of the marine facility has obtained a certificate of financial responsibility. To receive a certificate of financial responsibility from the administrator for oil spill response, the act requires the owner or operator of a marine facility to make a specified showing of financial resources to the satisfaction of the administrator. The act authorizes the administrator to issue a certificate of financial responsibility on a lesser showing of financial resources for a period of not longer than 3 years if the administrator makes specified findings.~~

~~This bill would delete the authorization granted to the administrator to issue a certificate of financial responsibility on a lesser showing of financial resources and would require the administrator to adopt regulations to implement the certification requirements.~~

~~(10) Existing law establishes the Oil Spill Technical Advisory Committee to provide public input and independent judgment of the actions of the administrator and requires the committee to provide recommendations to the administrator and other specified state entities. The committee is composed of 10 members.~~

~~This bill would increase the number of members from 10 to 15 and would require the Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems, and would also require the Governor to appoint one additional member who has knowledge of the railroad industry, another with knowledge of the truck transportation industry, and another with knowledge of the oil production industry. The bill would require the committee to monitor and evaluate the modes of transportation of oil into and within the state and the properties of the oil to identify necessary changes in oil spill response and preparedness programs.~~

~~(11) This bill would require each railroad intending to transport crude oil into or within the state on at least an annual basis to provide to the administrator with specified information.~~

~~(12) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: ~~no~~ yes. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5654 of the Fish and Game Code is
2 amended to read:

3 5654. (a) (1) Notwithstanding Section 7715 and except as
4 provided in paragraph (2), the director, within 24 hours of
5 notification of a spill or discharge, as those terms are defined in
6 ~~subdivision (a)~~ of Section 8670.3 of the Government Code, where
7 any fishing, including all commercial, recreational, and nonlicensed
8 subsistence fishing, may take place, or where aquaculture
9 operations are taking place, shall close to the take of all fish and
10 shellfish all waters in the vicinity of the spill or discharge or where
11 the spilled or discharged material has spread, or is likely to spread.
12 In determining where a spill or discharge is likely to spread, the
13 director shall consult with the Administrator of the Office of Spill
14 Prevention and Response. At the time of closure, the department
15 shall make all reasonable efforts to notify the public of the closure,
16 including notification to commercial and recreational fishing
17 organizations, and posting of warnings on public piers and other
18 locations where subsistence fishing is known to occur. The
19 department shall coordinate, when possible, with local and regional
20 agencies and organizations to expedite public notification.

21 (2) Closure pursuant to paragraph (1) is not required if, within
22 24 hours of notification of a spill or discharge, the Office of
23 Environmental Health Hazard Assessment finds that a public health
24 threat does not or is unlikely to exist.

25 (b) Within 48 hours of notification of a spill or discharge subject
26 to subdivision (a), the director, in consultation with the Office of

1 Environmental Health Hazard Assessment, shall make an
2 assessment and determine all of the following:

3 (1) The danger posed to the public from fishing in the area where
4 the spill or discharge occurred or spread, and the danger of
5 consuming fish taken in the area where the spill or discharge
6 occurred or spread.

7 (2) Whether the areas closed for the take of fish or shellfish
8 should be expanded to prevent any potential take or consumption
9 of any fish or shellfish that may have been contaminated by the
10 spill or discharge.

11 (3) The likely period for maintaining a closure on the take of
12 fish and shellfish in order to prevent any possible contaminated
13 fish or shellfish from being taken or consumed or other threats to
14 human health.

15 (c) Within 48 hours after receiving notification of a spill or
16 discharge subject to subdivision (a), or as soon as is feasible, the
17 director, in consultation with the Office of Environmental Health
18 Hazard Assessment, shall assess and determine the potential danger
19 from consuming fish that have been contained in a recirculating
20 seawater tank onboard a vessel that may become contaminated by
21 the vessel's movement through an area where the spill or discharge
22 occurred or spread.

23 (d) If the director finds in his or her assessment pursuant to
24 subdivision (b) that there is no significant risk to the public or to
25 the fisheries, the director may immediately reopen the closed area
26 and waive the testing requirements of subdivisions (e) and (f).

27 (e) Except under the conditions specified in subdivision (d),
28 after complying with subdivisions (a) and (b), the director, in
29 consultation with the Office of Environmental Health Hazard
30 Assessment, but in no event more than seven days from the
31 notification of the spill or discharge, shall order expedited tests of
32 fish and shellfish that would have been open for take for
33 commercial, recreational, or subsistence purposes in the closed
34 area if not for the closure, to determine the levels of contamination,
35 if any, and whether the fish or shellfish is safe for human
36 consumption.

37 (f) (1) Within 24 hours of receiving a notification from the
38 Office of Environmental Health Hazard Assessment that no threat
39 to human health exists from the spill or discharge or that no
40 contaminant from the spill or discharge is present that could

1 contaminate fish or shellfish, the director shall reopen the areas
2 closed pursuant to this section. The director may maintain a closure
3 in any remaining portion of the closed area where the Office of
4 Environmental Health Hazard Assessment finds contamination
5 from the spill or discharge persists that may adversely affect human
6 health.

7 (2) The director, in consultation with the commission, may also
8 maintain a closure in any remaining portion of the closed area
9 where commercial fishing or aquaculture occurs and where the
10 department determines, pursuant to this paragraph, that
11 contamination from the spill or discharge persists that may cause
12 the waste of commercial fish or shellfish as regulated by Section
13 7701.

14 (g) To the extent feasible, the director shall consult with
15 representatives of commercial and recreational fishing associations
16 and subsistence fishing communities regarding the extent and
17 duration of a closure, testing protocols, and findings. If a spill or
18 discharge occurs within the lands governed by a Native American
19 tribe or affects waters flowing through tribal lands, or tribal
20 fisheries, the director shall consult with the affected tribal
21 governments.

22 (h) The director shall seek full reimbursement from the
23 responsible party or parties for the spill or discharge for all
24 reasonable costs incurred by the department in carrying out this
25 section, including, but not limited to, all testing.

26 *SEC. 2. Section 8574.4 of the Government Code is amended*
27 *to read:*

28 8574.4. State agencies designated to implement the contingency
29 plan shall account for all state expenditures made under the plan
30 with respect to each oil spill. Expenditures accounted for under
31 this section from an oil spill in ~~marine~~ *waters of the state* shall be
32 paid from the Oil Spill Response Trust Fund created pursuant to
33 Section 8670.46. All other expenditures accounted for under this
34 section shall be paid from the State Water Pollution Cleanup and
35 Abatement Account in the State Water Quality Control Fund
36 provided for in Article 3 (commencing with Section 13440) of
37 Chapter 6 of Division 7 of the Water Code. If the party responsible
38 for the spill is identified, that party shall be liable for the
39 expenditures accounted for under this section, in addition to any
40 other liability ~~which~~ *that* may be provided for by law, in an action

1 brought by the Attorney General. The proceeds from any ~~such~~
2 action for a spill in marine waters shall be paid into the Oil Spill
3 Response Trust Fund.

4 *SEC. 3. Section 8574.7 of the Government Code is amended*
5 *to read:*

6 8574.7. The Governor shall require the administrator, not in
7 conflict with the National Contingency Plan, to amend the
8 California oil spill contingency plan ~~by adding a marine oil spill~~
9 ~~contingency planning section that provides~~ *to provide* for the best
10 achievable protection of the coast and marine waters *of the state*.

11 “Administrator” for purposes of this section means the
12 administrator appointed by the Governor pursuant to Section
13 8670.4. ~~The marine oil spill contingency planning section plan~~
14 shall consist of all of the following elements:

15 (a) A state ~~marine~~ response element that specifies the hierarchy
16 for state and local agency response to an oil spill. The element
17 shall define the necessary tasks for oversight and control of cleanup
18 and removal activities associated with ~~a marine~~ *an* oil spill and
19 shall specify each agency’s particular responsibility in carrying
20 out these tasks. The element shall also include an organizational
21 chart of the state ~~marine~~ oil spill response organization and a
22 definition of the resources, capabilities, and response assignments
23 of each agency involved in cleanup and removal actions in ~~a marine~~
24 *an* oil spill.

25 (b) A regional and local planning element that shall provide the
26 framework for the involvement of regional and local agencies in
27 the state effort to respond to ~~a marine~~ *an* oil spill, and shall ensure
28 the effective and efficient use of regional and local resources, *as*
29 *appropriate*, in all of the following:

30 (1) Traffic and crowd control.
31 (2) Firefighting.
32 (3) Boating traffic control.
33 (4) Radio and communications control and provision of access
34 to equipment.

35 (5) Identification and use of available local and regional
36 equipment or other resources suitable for use in cleanup and
37 removal actions.

38 (6) Identification of private and volunteer resources or personnel
39 with special or unique capabilities relating to ~~marine~~ oil spill
40 cleanup and removal actions.

1 (7) Provision of medical emergency services.

2 (8) Consideration of the identification and use of private working
3 craft and mariners, including commercial fishing vessels and
4 licensed commercial fishing men and women, in containment,
5 cleanup, and removal actions.

6 (c) A coastal protection element that establishes the state
7 standards for coastline protection. The administrator, in
8 consultation with the Coast Guard and Navy and the shipping
9 industry, shall develop criteria for coastline protection. If
10 appropriate, the administrator shall consult with representatives
11 from the States of Alaska, Washington, and Oregon, the Province
12 of British Columbia in Canada, and the Republic of Mexico. The
13 criteria shall designate at least all of the following:

14 (1) Appropriate shipping lanes and navigational aids for tankers,
15 barges, and other commercial vessels to reduce the likelihood of
16 collisions between tankers, barges, and other commercial vessels.
17 Designated shipping lanes shall be located off the coastline at a
18 distance sufficient to significantly reduce the likelihood that
19 disabled vessels will run aground along the coast of the state.

20 (2) Ship position reporting and communications requirements.

21 (3) Required predeployment of protective equipment for
22 sensitive environmental areas along the coastline.

23 (4) Required emergency response vessels that are capable of
24 preventing disabled tankers from running aground.

25 (5) Required emergency response vessels that are capable of
26 commencing oil cleanup operations before spilled oil can reach
27 the shoreline.

28 (6) An expedited decisionmaking process for dispersant use in
29 coastal waters. Prior to adoption of the process, the administrator
30 shall ensure that a comprehensive testing program is carried out
31 for any dispersant proposed for use in California marine waters.
32 The testing program shall evaluate toxicity and effectiveness of
33 the dispersants.

34 (7) Required rehabilitation facilities for wildlife injured by
35 spilled oil.

36 (8) An assessment of how activities that usually require a permit
37 from a state or local agency may be expedited or issued by the
38 administrator in the event of an oil spill.

39 (d) An environmentally and ecologically sensitive areas element
40 that shall provide the framework for prioritizing and ensuring the

1 protection of environmentally and ecologically sensitive areas.
2 The environmentally and ecologically sensitive areas element shall
3 be developed by the administrator, in conjunction with appropriate
4 local agencies, and shall include all of the following:

5 (1) Identification and prioritization of environmentally and
6 ecologically sensitive areas in ~~marine~~ *state* waters and along the
7 coast. Identification and prioritization of environmentally and
8 ecologically sensitive areas shall not prevent or excuse the use of
9 all reasonably available containment and cleanup resources from
10 being used to protect every environmentally and ecologically
11 sensitive area possible. Environmentally and ecologically sensitive
12 areas shall be prioritized through the evaluation of criteria,
13 including, but not limited to, all of the following:

14 (A) Risk of contamination by oil after a spill.

15 (B) Environmental, ecological, recreational, and economic
16 importance.

17 (C) Risk of public exposure should the area be contaminated.

18 (2) Regional maps depicting environmentally and ecologically
19 sensitive areas in ~~marine~~ *state* waters or along the coast that shall
20 be distributed to facilities and local and state agencies. The maps
21 shall designate those areas that have particularly high priority for
22 protection against oil spills.

23 (3) A plan for protection actions required to be taken in the
24 event of an oil spill for each of the environmentally and
25 ecologically sensitive areas and protection priorities for the first
26 24 to 48 hours after an oil spill shall be specified.

27 (4) The location of available response equipment and the
28 availability of trained personnel to deploy the equipment to protect
29 the priority environmentally and ecologically sensitive areas.

30 (5) A program for systemically testing and revising, if necessary,
31 protection strategies for each of the priority environmentally and
32 ecologically sensitive areas.

33 (6) Any recommendations for action that cannot be financed or
34 implemented pursuant to existing authority of the administrator,
35 which shall also be reported to the Legislature along with
36 recommendations for financing those actions.

37 ~~(e) This section shall become operative on January 1, 2012.~~

38 *(e) A reporting element that requires the reporting of oil spills*
39 *of any amount of oil to state waters.*

1 *SEC. 4. Section 8574.8 of the Government Code is amended*
2 *to read:*

3 8574.8. (a) The administrator shall submit to the Governor
4 and the Legislature an amended California oil spill contingency
5 plan required, pursuant to Section 8574.7, by January 1, 1993. The
6 administrator shall thereafter submit revised plans every three
7 years, until the amended plan required pursuant to subdivision (b)
8 is submitted.

9 (b) The administrator shall submit to the Governor and the
10 Legislature an amended California oil spill contingency plan
11 required pursuant to Section 8574.7, ~~by on or before January 1,~~
12 ~~2010, 2017, that consists of both a~~ *addresses* ~~marine oil spill~~
13 ~~contingency planning section and an~~ *and* ~~inland oil spill~~
14 ~~contingency planning section~~ *spills*. The administrator shall
15 thereafter submit revised plans every three years.

16 *SEC. 5. Section 8670.2 of the Government Code is amended*
17 *to read:*

18 8670.2. The Legislature finds and declares as follows:

19 (a) Each year, billions of gallons of crude oil and petroleum
20 products are transported by vessel, *railroad, truck,* or pipeline
21 *over, across, under,* and through the ~~marine~~ waters of this state.

22 (b) Recent accidents in southern California, Alaska, ~~and~~ other
23 parts of the nation, *and Canada,* have shown that ~~marine~~
24 transportation of oil can be a significant threat to the environment
25 of sensitive ~~coastal~~ *environmental* areas.

26 (c) Existing prevention programs are not able to reduce
27 sufficiently the risk of significant discharge of petroleum into
28 ~~marine state~~ waters.

29 (d) Response and cleanup capabilities and technology are unable
30 to remove consistently the majority of spilled oil when major oil
31 spills occur in ~~marine state~~ waters.

32 (e) California's *lakes, rivers, other inland waters,* coastal waters,
33 estuaries, bays, and beaches are treasured environmental and
34 economic resources ~~which~~ *that* the state cannot afford to place at
35 undue risk from an oil spill.

36 (f) Because of the inadequacy of existing cleanup and response
37 measures and technology, the emphasis must be put on prevention,
38 if the risk and consequences of oil spills are to be minimized.

39 (g) Improvements in the design, construction, and operation of
40 *rail tank cars, tank trucks, tank ships, terminals, and pipelines;*

1 improvements in marine safety; maintenance of emergency
2 response stations and personnel; and stronger inspection and
3 enforcement efforts are necessary to reduce the risks of and from
4 a major oil spill.

5 (h) A major oil spill in ~~marine~~ *state* waters is extremely
6 expensive because of the need to clean up discharged oil, protect
7 sensitive environmental areas, and restore ecosystem damage.

8 (i) Immediate action must be taken to improve control and
9 cleanup technology in order to strengthen the capabilities and
10 capacities of cleanup operations.

11 (j) California government should improve its response and
12 management of oil spills that occur in ~~marine~~ *state* waters.

13 (k) Those who transport oil through *or near* the ~~marine~~ waters
14 of the state must meet minimum safety standards and demonstrate
15 financial responsibility.

16 (l) The federal government plays an important role in preventing
17 and responding to petroleum spills and it is in the interests of the
18 state to coordinate with agencies of the federal government,
19 including the Coast Guard *and the United States Environmental*
20 *Protection Agency*, to the greatest degree possible.

21 (m) California has approximately 1,100 miles of coast, including
22 four marine sanctuaries ~~which~~ *that* occupy 88,767 square miles.
23 The weather, topography, and tidal currents in and around
24 California's coastal ports and waterways make vessel navigation
25 challenging. The state's major ports are among the busiest in the
26 world. Approximately 700 million barrels of oil are consumed
27 annually by California, with over 500 million barrels being
28 transported by vessel. The peculiarities of California's maritime
29 coast require special precautionary measures regarding oil
30 pollution.

31 (n) *California has approximately 158,500 square miles of*
32 *interior area where there are approximately 6,800 miles of pipeline*
33 *used for oil distribution, 5,800 miles of Class I railroad track, and*
34 *172,100 miles of maintained roads.*

35 SEC. 6. Section 8670.3 of the Government Code is amended
36 to read:

37 8670.3. Unless the context requires otherwise, the following
38 definitions shall govern the construction of this chapter:

39 (a) "Administrator" means the administrator for oil spill response
40 appointed by the Governor pursuant to Section 8670.4.

(b) (1) “Best achievable protection” means the highest level of protection that can be achieved through both the use of the best achievable technology and those manpower levels, training procedures, and operational methods that provide the greatest degree of protection achievable. The administrator’s determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable ~~coastal~~ *natural* resources and ~~marine state~~ waters, while also considering all of the following:

- (A) The protection provided by the measure.
- (B) The technological achievability of the measure.
- (C) The cost of the measure.

(2) The administrator shall not use a cost-benefit or cost-effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for ~~coastal and marine~~ *the natural resources of the state*.

(c) (1) “Best achievable technology” means that technology that provides the greatest degree of protection, taking into consideration both of the following:

(A) Processes that are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development.

(B) Processes that are currently in use anywhere in the world.

(2) In determining what is the best achievable technology pursuant to this chapter, the administrator shall consider the effectiveness and engineering feasibility of the technology.

(d) “*California oil spill contingency plan*” means the *California oil spill contingency plan prepared pursuant to Article 3.5 (commencing with Section 8574.1) of Chapter 7*.

~~(d)~~

(e) “Dedicated response resources” means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil

1 spill response services in the timeframes for which the equipment
2 and personnel are rated.

3 ~~(e) “Director” means the Director of Fish and Game.~~

4 (f) “Environmentally sensitive area” means an area defined
5 pursuant to the applicable area contingency plans *or geographic*
6 *response plans*, as created and revised by the Coast Guard, *the*
7 *United States Environmental Protection Agency*, and the
8 administrator.

9 (g) (1) “Facility” means any of the following located in state
10 waters or located where an oil spill may impact state waters:

11 (A) A building, structure, installation, or equipment used in oil
12 exploration, oil well drilling operations, oil production, oil refining,
13 oil storage, oil gathering, oil processing, oil transfer, oil
14 distribution, or oil transportation.

15 (B) A marine terminal.

16 (C) A pipeline that transports oil.

17 (D) A railroad that transports oil as cargo.

18 (E) A drill ship, semisubmersible drilling platform, jack-up type
19 drilling rig, or any other floating or temporary drilling platform.

20 (2) “Facility” does not include any of the following:

21 (A) A vessel, except a vessel located and used for any purpose
22 described in subparagraph (E) of paragraph (1).

23 (B) An owner or operator subject to Chapter 6.67 (commencing
24 with Section 25270) or Chapter 6.75 (commencing with Section
25 25299.10) of Division 20 of the Health and Safety Code.

26 (C) Operations on a farm, nursery, logging site, or construction
27 site that are either of the following:

28 (i) Do not exceed 20,000 gallons in a single storage tank.

29 (ii) Have a useable tank storage capacity not exceeding 75,000
30 gallons.

31 (D) A small craft refueling dock.

32 ~~(g) “Inland spill” means a release of at least one barrel (42~~
33 ~~gallons) of oil into inland waters that is not authorized by any~~
34 ~~federal, state, or local governmental entity.~~

35 ~~(h) “Inland waters” means waters of the state other than marine~~
36 ~~waters, but not including groundwater.~~

37 ~~(i)~~

38 (h) “Local government” means a chartered or general law city,
39 a chartered or general law county, or a city and county.

~~(j) (1) “Marine facility” means any facility of any kind, other than a tank ship or tank barge, that is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in marine waters, or is located where a discharge could impact marine waters unless the facility is either of the following:~~

~~(A) Subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code.~~

~~(B) Placed on a farm, nursery, logging site, or construction site and does not exceed 20,000 gallons in a single storage tank.~~

~~(2) For the purposes of this chapter, “marine facility” includes a drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.~~

~~(3) For the purposes of this chapter, “marine facility” does not include a small craft refueling dock.~~

~~(k)~~

~~(i) (1) “Marine terminal” means any marine facility used for transferring oil to or from a tank ship or tank barge.~~

~~(2) “Marine terminal” includes, for purposes of this chapter, all piping not integrally connected to a tank facility, as defined in subdivision (m) (n) of Section 25270.2 of the Health and Safety Code.~~

~~(l) “Marine waters” means those waters subject to tidal influence, and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.~~

~~(m)~~

~~(j) “Mobile transfer unit” means a small marine fueling facility that is a vehicle, truck, or trailer, including all connecting hoses and piping, used for the transferring of oil at a location where a discharge could impact marine waters of the state.~~

~~(n)~~

~~(k) “Nondedicated response resources” means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.~~

~~(o)~~

~~(l) “Nonpersistent oil” means a petroleum-based oil, such as gasoline or jet fuel, that evaporates relatively quickly and is an oil with hydrocarbon fractions, at least 50 percent of which, by~~

1 volume, distills at a temperature of 645 degrees Fahrenheit, and
2 at least 95 percent of which, by volume, distills at a temperature
3 of 700 degrees Fahrenheit.

4 ~~(p)~~

5 (m) “Nontank vessel” means a vessel of 300 gross tons or greater
6 that carries oil, but does not carry that oil as cargo.

7 ~~(q)~~

8 (n) “Oil” means any kind of petroleum, liquid hydrocarbons,
9 or petroleum products or any fraction or residues therefrom,
10 including, but not limited to, crude oil, bunker fuel, gasoline, diesel
11 fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and
12 liquid distillates from unprocessed natural gas.

13 ~~(r)~~

14 (o) “Oil spill cleanup agent” means a chemical, or any other
15 substance, used for removing, dispersing, or otherwise cleaning
16 up oil or any residual products of petroleum in, or on, any of the
17 waters of the state.

18 ~~(s)~~

19 (p) “Oil spill contingency plan” or “contingency plan” means
20 the oil spill contingency plan required pursuant to Article 5
21 (commencing with Section 8670.28).

22 ~~(t)~~

23 (q) (1) “Oil Spill Response Organization” or “OSRO” means
24 an individual, organization, association, cooperative, or other entity
25 that provides, or intends to provide, equipment, personnel, supplies,
26 or other services directly related to oil spill containment, cleanup,
27 or removal activities.

28 ~~(2) A “rated OSRO” means an OSRO that has received a~~
29 ~~satisfactory rating from the administrator for a particular rating~~
30 ~~level established pursuant to Section 8670.30.~~

31 ~~(3)~~

32 (2) “OSRO” does not include an owner or operator with an oil
33 spill contingency plan approved by the administrator or an entity
34 that only provides spill management services, or who provides
35 services or equipment that are only ancillary to containment,
36 cleanup, or removal activities.

37 ~~(u) “Onshore facility” means a facility of any kind that is located~~
38 ~~entirely on lands not covered by marine waters.~~

39 ~~(v)~~

40 (r) (1) “Owner” or “operator” means any of the following:

1 (A) In the case of a vessel, a person who owns, has an ownership
2 interest in, operates, charters by demise, or ~~leases~~, *leases* the vessel.

3 (B) In the case of a ~~marine~~ facility, a person who owns, has an
4 ownership interest in, or operates the ~~marine~~ facility.

5 (C) Except as provided in subparagraph (D), in the case of a
6 vessel or ~~marine~~ facility, where title or control was conveyed due
7 to bankruptcy, foreclosure, tax delinquency, abandonment, or
8 similar means to an entity of state or local government, a person
9 who owned, held an ownership interest in, operated, or otherwise
10 controlled activities concerning the vessel or ~~marine~~ facility
11 immediately beforehand.

12 (D) An entity of the state or local government that acquired
13 ownership or control of a vessel or ~~marine~~ facility, when the entity
14 of the state or local government has caused or contributed to a spill
15 or discharge of oil into ~~marine~~ waters *of the state*.

16 (2) “Owner” or “operator” does not include a person who,
17 without participating in the management of a vessel or ~~marine~~
18 facility, holds indicia of ownership primarily to protect the person’s
19 security interest in the vessel or ~~marine~~ facility.

20 (3) “Operator” does not include a person who owns the land
21 underlying a ~~marine~~ facility or the facility itself if the person is
22 not involved in the operations of the facility.

23 ~~(w)~~
24 (s) “Person” means an individual, trust, firm, joint stock
25 company, or corporation, including, but not limited to, a
26 government corporation, partnership, and association. “Person”
27 also includes a city, county, city and county, district, and the state
28 or any department or agency thereof, and the federal government,
29 or any department or agency thereof, to the extent permitted by
30 law.

31 ~~(x)~~
32 (t) “Pipeline” means a pipeline used at any time to transport oil.

33 (u) “Railroad” *means a railroad, railway, rail car, rolling*
34 *stock, or train.*

35 (v) “*Rated OSRO*” *means an OSRO that has received a*
36 *satisfactory rating from the administrator for a particular rating*
37 *level established pursuant to Section 8670.30.*

38 ~~(y) “Reasonable worst case spill” means, for the purposes of~~
39 ~~preparing contingency plans for a nontank vessel, the total volume~~
40 ~~of the largest fuel tank on the nontank vessel.~~

1 ~~(z)~~

2 (w) “Responsible party” or “party responsible” means any of
3 the following:

4 (1) The owner or transporter of oil or a person or entity accepting
5 responsibility for the oil.

6 (2) The owner, operator, or lessee of, or a person that charters
7 by demise, a vessel or ~~marine~~ facility, or a person or entity
8 accepting responsibility for the vessel or ~~marine~~ facility.

9 ~~(aa)~~

10 (x) “Small craft” means a vessel, other than a tank ship or tank
11 barge, that is less than 20 meters in length.

12 ~~(ab)~~

13 (y) “Small craft refueling dock” means a waterside operation
14 that dispenses only nonpersistent oil in bulk and small amounts of
15 persistent lubrication oil in containers primarily to small craft and
16 meets both of the following criteria:

17 (1) Has tank storage capacity not exceeding 20,000 gallons in
18 any single storage tank or tank compartment.

19 (2) Has total usable tank storage capacity not exceeding 75,000
20 gallons.

21 ~~(ae)~~

22 (z) “Small marine fueling facility” means either of the following:

23 (1) A mobile transfer unit.

24 (2) A fixed facility that is not a marine terminal, that dispenses
25 primarily nonpersistent oil, that may dispense small amounts of
26 persistent oil, primarily to small craft, and that meets all of the
27 following criteria:

28 (A) Has tank storage capacity greater than 20,000 gallons but
29 not more than 40,000 gallons in any single storage tank or storage
30 tank compartment.

31 (B) Has total usable tank storage capacity not exceeding 75,000
32 gallons.

33 (C) Had an annual throughput volume of over-the-water transfers
34 of oil that did not exceed 3,000,000 gallons during the most recent
35 preceding 12-month period.

36 ~~(ad) “Spill” or “discharge”~~

37 (aa) “*Spill*,” “*discharge*,” or “*oil spill*” means a release of ~~at~~
38 ~~least one barrel (42 gallons) any amount~~ of oil into ~~marine~~ waters
39 of the state that is not authorized by a federal, state, or local
40 government entity.

1 ~~(ae) “California oil spill contingency plan” means the California~~
2 ~~oil spill contingency plan prepared pursuant to Article 3.5~~
3 ~~(commencing with Section 8574.1) of Chapter 7.~~

4 ~~(af)~~

5 ~~(ab) “Tank barge” means a vessel that carries oil in commercial~~
6 ~~quantities as cargo but is not equipped with a means of~~
7 ~~self-propulsion.~~

8 ~~(ag)~~

9 ~~(ac) “Tank ship” means a self-propelled vessel that is~~
10 ~~constructed or adapted for the carriage of oil in bulk or in~~
11 ~~commercial quantities as cargo.~~

12 ~~(ah)~~

13 ~~(ad) “Tank vessel” means a tank ship or tank barge.~~

14 ~~(ai)~~

15 ~~(ae) “Vessel” means a watercraft or ship of any kind, including~~
16 ~~every structure adapted to be navigated from place to place for the~~
17 ~~transportation of merchandise or persons.~~

18 ~~(aj)~~

19 ~~(af) “Vessel carrying oil as secondary cargo” means a vessel~~
20 ~~that does not carry oil as a primary cargo, but does carry oil in~~
21 ~~bulk as cargo or cargo residue. The administrator may establish~~
22 ~~minimum oil volume amounts or other criteria by regulations.~~

23 ~~(ag) “Waters of the state” or “state waters” means any surface~~
24 ~~water, including saline waters, marine waters, and freshwaters,~~
25 ~~within the boundaries of the state but does not include~~
26 ~~groundwater.~~

27 ~~This section shall become operative on January 1, 2012.~~

28 ~~SEC. 7. Section 8670.5 of the Government Code is amended~~
29 ~~to read:~~

30 ~~8670.5. The Governor shall ensure that the state fully and~~
31 ~~adequately responds to all oil spills in marine waters of the state.~~
32 ~~The administrator, acting at the direction of the Governor, shall~~
33 ~~implement activities relating to oil spill response, including drills~~
34 ~~and preparedness and oil spill containment and cleanup. The~~
35 ~~administrator shall also represent the state in any coordinated~~
36 ~~response efforts with the federal government.~~

37 ~~SEC. 8. Section 8670.7 of the Government Code is amended~~
38 ~~to read:~~

39 ~~8670.7. (a) The administrator, subject to the Governor, has~~
40 ~~the primary authority to direct prevention, removal, abatement,~~

1 response, containment, and cleanup efforts with regard to all
2 aspects of any oil spill in ~~the marine~~ waters of the state, in
3 accordance with any applicable ~~marine~~ facility or vessel
4 contingency plan and the California oil spill contingency plan. The
5 administrator shall cooperate with any federal on-scene coordinator,
6 as specified in the National Contingency Plan.

7 (b) The administrator shall implement the California oil spill
8 contingency plan, required pursuant to Section 8574.1, to the fullest
9 extent possible.

10 (c) The administrator shall do both of the following:

11 (1) Be present at the location of any oil spill of more than
12 100,000 gallons in ~~marine~~ waters *of the state*, as soon as possible
13 after notice of the discharge.

14 (2) Ensure that persons trained in oil spill response and cleanup,
15 whether employed by the responsible party, the state, or another
16 private or public person or entity, are onsite to respond to, contain,
17 and clean up any oil spill in ~~marine~~ waters *of the state*, as soon as
18 possible after notice of the discharge.

19 (d) Throughout the response and cleanup process, the
20 administrator shall apprise the air quality management district or
21 air pollution control district having jurisdiction over the area in
22 which the oil spill occurred and the local government ~~entities~~
23 *agencies* that are affected by the spill.

24 (e) The administrator, with the assistance, *as needed*, of the
25 *Office of the State Fire Marshal*, the State Lands Commission, *or*
26 *other state agency*, and the federal on-scene coordinator, shall
27 determine the cause and amount of the discharge.

28 (f) The administrator shall have the state authority over the use
29 of all response methods, including, but not limited to, in situ
30 burning, dispersants, and any oil spill cleanup agents in connection
31 with an oil discharge. The administrator shall consult with the
32 federal on-scene coordinator prior to exercising authority under
33 this subdivision.

34 (g) (1) The administrator shall conduct workshops, consistent
35 with the intent of this chapter, with the participation of appropriate
36 local, state, and federal agencies, including the State Air Resources
37 Board, air pollution control ~~districts~~, and air quality management
38 districts, and affected private organizations, on the subject of oil
39 spill response technologies, including in situ burning. The
40 workshops shall review the latest research and findings regarding

1 the efficacy and toxicity of oil spill cleanup agents and other
2 technologies, their potential public health and safety and
3 environmental impacts, and any other relevant factors concerning
4 their use in oil spill response. In conducting these workshops, the
5 administrator shall solicit the views of all participating parties
6 concerning the use of these technologies, with particular attention
7 to any special considerations that apply to coastal areas and ~~marine~~
8 waters of the state.

9 (2) The administrator shall publish guidelines and conduct
10 periodic reviews of the policies, procedures, and parameters for
11 the use of in situ burning, which may be implemented in the event
12 of an oil spill.

13 (h) (1) The administrator shall ensure that, as part of the
14 response to any significant spill, biologists or other personnel are
15 present and provided any support and funding necessary and
16 appropriate for the assessment of damages to natural resources
17 and for the collection of data and other evidence that may help in
18 determining and recovering damages.

19 (2) (A) The administrator shall coordinate all actions required
20 by state or local agencies to assess injury to, and provide full
21 mitigation for injury to, or to restore, rehabilitate, or replace, natural
22 resources, including wildlife, fisheries, wildlife or fisheries habitat,
23 ~~and~~ beaches, and ~~other~~ coastal areas, that are damaged by an oil
24 spill. For purposes of this subparagraph, “actions required by state
25 or local agencies” include, but are not limited to, actions required
26 by state trustees under Section 1006 of the Oil Pollution Act of
27 1990 (33 U.S.C. Sec. 2706) and actions required pursuant to
28 Section 8670.61.5.

29 (B) The responsible party shall be liable for all coordination
30 costs incurred by the administrator.

31 (3) This subdivision does not give the administrator any
32 authority to administer state or local laws or to limit the authority
33 of another state or local agency to implement and enforce state or
34 local laws under its jurisdiction, nor does this subdivision limit
35 the authority or duties of the administrator under this chapter or
36 limit the authority of an agency to enforce existing permits or
37 permit conditions.

38 (i) (1) The administrator shall enter into a memorandum of
39 understanding with the executive director of the State Water
40 Resources Control Board, acting for the State Water Resources

1 Control Board and the California regional water quality control
2 boards, and with the approval of the State Water Resources Control
3 Board, to address discharges, other than dispersants, that are
4 incidental to, or directly associated with, the response, containment,
5 and cleanup of an existing or threatened oil spill conducted
6 pursuant to this chapter.

7 (2) The memorandum of understanding entered into pursuant
8 to paragraph (1) shall address any permits, requirements, or
9 authorizations that are required for the specified discharges. The
10 memorandum of understanding shall be consistent with
11 requirements that protect state water quality and beneficial uses
12 and with any applicable provisions of the Porter-Cologne Water
13 Quality Control Act (Division 7 (commencing with Section 13000)
14 of the Water Code) or the federal Clean Water Act (33 U.S.C. Sec.
15 1251 et seq.), and shall expedite efficient oil spill response.

16 ~~(j) This section shall become effective on January 1, 2012.~~

17 *SEC. 9. Section 8670.8 of the Government Code is amended*
18 *to read:*

19 8670.8. (a) The administrator shall carry out programs to
20 provide training for individuals in response, containment, and
21 cleanup operations and equipment, equipment deployment, and
22 the planning and management of these programs. These programs
23 may include training for members of the California Conservation
24 Corps, other response personnel employed by the state, personnel
25 employed by other public entities, personnel from marine facilities,
26 commercial fishermen and other mariners, and interested members
27 of the public. Training may be offered for volunteers.

28 (b) The administrator may offer training to anyone who is
29 required to take part in response and cleanup efforts under the
30 California oil spill contingency plan or under local government
31 contingency plans prepared and approved under this chapter.

32 (c) Upon request by a local government, the administrator ~~shall~~
33 *may* provide a program for training and certification of a local
34 emergency responder designated as a local spill response manager
35 by a local government with jurisdiction over or directly adjacent
36 ~~to marine waters of the state.~~

37 (d) Trained and certified local spill response managers shall
38 participate in all drills upon request of the administrator.

1 (e) As part of the training and certification program, the
2 administrator shall authorize a local spill response manager to train
3 and certify volunteers.

4 (f) In the event of an oil spill, local spill response managers
5 trained and certified pursuant to subdivision (c) shall provide the
6 state onscene coordinator with timely information on activities
7 and resources deployed by local government in response to the oil
8 spill. The local spill response manager shall cooperate with the
9 administrator and respond in a manner consistent with the area
10 contingency plan to the extent possible.

11 (g) Funding for activities undertaken pursuant to subdivisions
12 (a) to (c), inclusive, shall be from the Oil Spill Prevention and
13 Administration Fund created pursuant to Section 8670.38.

14 (h) All training provided by the administrator shall follow the
15 requirements of applicable federal and state occupational safety
16 and health standards adopted by the Occupational Safety and
17 Health Administration of the Department of Labor and the
18 ~~California Occupational Safety~~, *Occupational Safety* and Health
19 Standards Board.

20 *SEC. 10. Section 8670.8.3 of the Government Code is amended*
21 *to read:*

22 8670.8.3. The administrator ~~shall~~ *may* offer grants to a local
23 government with jurisdiction over or directly adjacent to ~~marine~~
24 ~~waters of the state~~ to provide oil spill response equipment to be
25 deployed by a local spill response manager certified pursuant to
26 Section 8670.8. The administrator ~~shall~~ *may* request the Legislature
27 to appropriate funds from the Oil Spill Prevention and
28 Administration Fund created pursuant to Section 8670.38 for the
29 purposes of this section.

30 *SEC. 11. Section 8670.8.5 of the Government Code is amended*
31 *to read:*

32 8670.8.5. The administrator may use volunteer workers in
33 response, containment, restoration, wildlife rehabilitation, and
34 cleanup efforts for oil spills in ~~marine~~ *waters of the state*. The
35 volunteers shall be deemed employees of the state for the purpose
36 of workers' compensation under Article 2 (commencing with
37 Section 3350) of Chapter 2 of Part 1 of Division 4 of the Labor
38 Code. Any payments for workers' compensation pursuant to this
39 section shall be made from the Oil Spill Response Trust Fund
40 created pursuant to Section 8670.46.

1 *SEC. 12. Section 8670.9 of the Government Code is amended*
2 *to read:*

3 8670.9. (a) The administrator shall enter into discussions on
4 behalf of the state with the States of Alaska, Hawaii, Oregon, and
5 Washington, for the purpose of developing interstate agreements
6 regarding oil spill prevention and response. The agreements shall
7 address, including, but not limited to, all of the following:

8 (1) Coordination of vessel safety and traffic.

9 (2) Spill prevention equipment and response required on ~~tank~~
10 ~~ships and tank barges and at terminals~~ *vessels and at facilities.*

11 (3) The availability of oil spill response and cleanup equipment
12 and personnel.

13 (4) Other matters that may relate to the transport of oil and oil
14 spill prevention, response, and cleanup.

15 (b) The administrator shall coordinate the development of these
16 agreements with the Coast Guard, the Province of British Columbia
17 in Canada, and the Republic of Mexico.

18 *SEC. 13. Section 8670.12 of the Government Code is amended*
19 *to read:*

20 8670.12. (a) The administrator shall conduct studies and
21 evaluations necessary for improving oil spill response, containment,
22 and cleanup and oil spill wildlife rehabilitation in ~~marine~~ waters
23 *of the state* and ~~marine~~ oil transportation systems. The administrator
24 may expend moneys from the Oil Spill Prevention and
25 Administration Fund created pursuant to Section 8670.38, enter
26 into consultation agreements, and acquire necessary equipment
27 and services for the purpose of carrying out these studies and
28 evaluations.

29 (b) The administrator shall study the use and effects of
30 dispersants, incineration, bioremediation, and any other methods
31 used to respond to a spill. The study shall periodically be updated
32 to ensure the best achievable protection from the use of those
33 methods. Based upon substantial evidence in the record, the
34 administrator may determine in individual cases that best
35 achievable protection is provided by establishing requirements
36 ~~which~~ *that* provide the greatest degree of protection achievable
37 without imposing costs ~~which~~ *that* significantly outweigh the
38 incremental protection that would otherwise be provided. The
39 studies shall do all of the following:

1 (1) Evaluate the effectiveness of dispersants and other chemical
2 agents in oil spill response under varying environmental conditions.

3 (2) Evaluate potential adverse impacts on the environment and
4 public health including, but not limited to, adverse toxic impacts
5 on water quality, fisheries, and wildlife with consideration to
6 bioaccumulation and synergistic impacts, and the potential for
7 human exposure, including skin contact and consumption of
8 contaminated seafood.

9 (3) Recommend appropriate uses and limitations on the use of
10 dispersants and other chemical agents to ensure they are used only
11 in situations where the administrator determines they are effective
12 and safe.

13 (c) The administrator shall evaluate the feasibility of using
14 commercial fishermen and other mariners for oil spill containment
15 and cleanup. The study shall examine the following:

- 16 (1) Equipment and technology needs.
17 (2) Coordination with private response personnel.
18 (3) Liability and insurance.
19 (4) Compensation.

20 (d) The studies shall be performed in conjunction with any
21 studies performed by federal, state, and international entities. The
22 administrator may enter into contracts for the studies.

23 *SEC. 14. Section 8670.14 of the Government Code is amended*
24 *to read:*

25 8670.14. The administrator shall coordinate the oil spill
26 prevention and response programs and ~~marine~~ facility, tank vessel,
27 and nontank vessel safety standards of the state with federal
28 programs *as appropriate and* to the maximum extent possible.

29 *SEC. 15. Section 8670.19 of the Government Code is amended*
30 *to read:*

31 8670.19. (a) The administrator shall periodically conduct a
32 comprehensive review of all oil spill contingency plans. The
33 administrator shall do both of the following:

- 34 (1) Segment the coast into appropriate areas as necessary.
35 (2) Evaluate the oil spill contingency plans for each area to
36 determine if deficiencies exist in equipment, personnel, training,
37 and any other area determined to be necessary, including those
38 response resources properly authorized for cascading into the area,
39 to ensure the best achievable protection of ~~the coastline, set forth~~

1 ~~in the California oil spill contingency plan, including the marine~~
2 ~~oil spill contingency planning section~~ *state waters from oil spills.*

3 (b) If the administrator finds that deficiencies exist, the
4 administrator shall, by the process set forth in Section 8670.31,
5 remand any oil spill contingency plans to the originating party
6 with recommendations for amendments necessary to ensure that
7 ~~the coastline is~~ *waters of the state* are protected.

8 *SEC. 16. Section 8670.25 of the Government Code is amended*
9 *to read:*

10 8670.25. (a) A person who, without regard to intent or
11 negligence, causes or permits any oil to be discharged in or on the
12 ~~marine waters or inland~~ waters of the state shall immediately
13 contain, clean up, and remove the oil in the most effective manner
14 that minimizes environmental damage and in accordance with the
15 applicable contingency plans, unless ordered otherwise by the
16 Coast Guard or the administrator.

17 (b) If there is a spill, an owner or operator shall comply with
18 the applicable oil spill contingency plan approved by the
19 administrator.

20 *SEC. 17. Section 8670.25.5 of the Government Code is*
21 *amended to read:*

22 8670.25.5. (a) (1) Without regard to intent or negligence, any
23 party responsible for the discharge or threatened discharge of oil
24 ~~in marine~~ *waters of the state* shall report the discharge immediately
25 to the Office of Emergency Services pursuant to Section ~~25507~~
26 ~~25510~~ of the Health and Safety Code.

27 (2) If the information initially reported pursuant to paragraph
28 (1) was inaccurate or incomplete, or if the quantity of oil discharged
29 has changed, any party responsible for the discharge or threatened
30 discharge of oil ~~in marine~~ *waters of the state* shall report the
31 updated information immediately to the Office of Emergency
32 Services pursuant to paragraph (1). The report shall contain the
33 accurate or complete information, or the revised quantity of oil
34 discharged.

35 (b) Immediately upon receiving notification pursuant to
36 subdivision (a), the Office of Emergency Services shall notify the
37 administrator, the State Lands Commission, the California Coastal
38 Commission, the California regional water quality control board
39 having jurisdiction over the location of the discharged oil, and the
40 appropriate local governmental agencies in the area surrounding

1 the discharged oil, and take the actions required by subdivision
2 (d) of Section 8589.7. If the spill has occurred within the
3 jurisdiction of the San Francisco Bay Conservation and
4 Development Commission, the Office of Emergency Services shall
5 notify that commission. Each public agency specified in this
6 subdivision shall adopt an internal protocol over communications
7 regarding the discharge of oil and file the internal protocol with
8 the Office of Emergency Services.

9 (c) The 24-hour emergency telephone number of the Office of
10 Emergency Services shall be posted at every *railroad dispatch*,
11 *pipeline operator control center*, *marine terminal*, at the area of
12 control of every marine facility, and on the bridge of every tankship
13 in marine waters.

14 ~~(d) This section does not apply to discharges, or potential~~
15 ~~discharges, of less than one barrel (42 gallons) of oil unless a more~~
16 ~~restrictive reporting standard is adopted in the California oil spill~~
17 ~~contingency plan prepared pursuant to Section 8574.1.~~

18 (e)

19 (d) Except as otherwise provided in this section and Section
20 8589.7, a notification made pursuant to this section shall satisfy
21 any immediate notification requirement contained in any permit
22 issued by a permitting agency.

23 *SEC. 18. Section 8670.26 of the Government Code is amended*
24 *to read:*

25 8670.26. Any local or state agency responding to ~~a spill of an~~
26 oil *spill* shall notify the Office of Emergency Services, if
27 notification ~~as is~~ required under Section 8670.25.5, Section 13272
28 of the Water Code, or any other notification procedure adopted in
29 the California oil spill contingency plan has not occurred.

30 *SEC. 19. Section 8670.27 of the Government Code is amended*
31 *to read:*

32 8670.27. (a) (1) All potentially responsible parties for
33 ~~discharged an oil spill~~ and all of their agents and employees and
34 all state and local agencies shall carry out response and cleanup
35 operations in accordance with the applicable contingency plan,
36 unless directed otherwise by the administrator or the Coast Guard.

37 (2) Except as provided in subdivision (b), the responsible party,
38 potentially responsible parties, their agents and employees, the
39 operators of all vessels docked at a marine facility that is the source
40 of a discharge, and all state and local agencies shall carry out spill

1 response consistent with the California oil spill contingency plan
2 or other applicable federal, state, or local spill response plans, and
3 owners and operators shall carry out spill response consistent with
4 their applicable response contingency plans, unless directed
5 otherwise by the administrator or the Coast Guard.

6 (b) If a responsible party or potentially responsible party
7 reasonably, and in good faith, believes that the directions or orders
8 given by the administrator pursuant to subdivision (a) will
9 substantially endanger the public safety or the environment, the
10 party may refuse to act in compliance with the orders or directions
11 of the administrator. The responsible party or potentially
12 responsible party shall state, at the time of the refusal, the reasons
13 why the party refuses to follow the orders or directions of the
14 administrator. The responsible party or potentially responsible
15 party shall give the administrator written notice of the reasons for
16 the refusal within 48 hours of refusing to follow the orders or
17 directions of the administrator. In any civil or criminal proceeding
18 commenced pursuant to this section, the burden of proof shall be
19 on the responsible party or potentially responsible party to
20 demonstrate, by clear and convincing evidence, why the refusal
21 to follow the orders or directions of the administrator was justified
22 under the circumstances.

23 *SEC. 20. Section 8670.28 of the Government Code is amended*
24 *to read:*

25 8670.28. (a) The administrator, taking into consideration the
26 ~~marine facility or vessel contingency plan requirements of the~~
27 ~~national and California contingency plans,~~ the State Lands
28 Commission, the *Office of the State Fire Marshal,* ~~and the~~
29 California Coastal Commission, *and other state and federal*
30 *agencies,* shall adopt and implement regulations governing the
31 adequacy of oil spill contingency plans to be prepared and
32 implemented under this article. All regulations shall be developed
33 in consultation with the Oil Spill Technical Advisory Committee,
34 and shall be consistent with the California oil spill contingency
35 plan and not in conflict with the National Contingency Plan. The
36 regulations shall provide for the best achievable protection of
37 ~~coastal and marine waters and natural resources of the state.~~ The
38 regulations shall permit the development, application, and use of
39 an oil spill contingency plan for similar vessels, pipelines,
40 terminals, and facilities within a single company or organization,

1 and across companies and organizations. The regulations shall, at
2 a minimum, ensure all of the following:

3 (1) All areas of ~~the marine state waters of the state~~ are at all
4 times protected by prevention, response, containment, and cleanup
5 equipment and operations. ~~For the purposes of this section, "marine~~
6 ~~waters" includes the waterways used for waterborne commercial~~
7 ~~vessel traffic to the Port of Stockton and the Port of Sacramento.~~

8 (2) Standards set for response, containment, and cleanup
9 equipment and operations are maintained and regularly improved
10 to protect the resources of the state.

11 (3) All appropriate personnel employed by operators required
12 to have a contingency plan receive training in oil spill response
13 and cleanup equipment usage and operations.

14 (4) Each oil spill contingency plan provides for appropriate
15 financial or contractual arrangements for all necessary equipment
16 and services; for the response, containment, and cleanup of a
17 reasonable worst case oil spill scenario for each ~~part of the coast~~
18 ~~area~~ the plan addresses.

19 (5) Each oil spill contingency plan demonstrates that all
20 protection measures are being taken to reduce the possibility of
21 an oil spill occurring as a result of the operation of the ~~marine~~
22 facility or vessel. The protection measures shall include, but not
23 be limited to, response to disabled vessels and an identification of
24 those measures taken to comply with requirements of Division 7.8
25 (commencing with Section 8750) of the Public Resources Code.

26 (6) Each oil spill contingency plan identifies the types of
27 equipment that can be used, the location of the equipment, and the
28 time taken to deliver the equipment.

29 (7) Each ~~marine~~ facility, *as determined by the administrator*,
30 conducts a hazard and operability study to identify the hazards
31 associated with the operation of the facility, including the use of
32 the facility by vessels, due to operating error, equipment failure,
33 and external events. For the hazards identified in the hazard and
34 operability studies, the facility shall conduct an offsite consequence
35 analysis ~~which~~ *that*, for the most likely hazards, assumes
36 pessimistic water and air dispersion and other adverse
37 environmental conditions.

38 (8) Each oil spill contingency plan contains a list of contacts to
39 call in the event of a drill, threatened discharge of oil, or discharge
40 of oil.

(9) Each oil spill contingency plan identifies the measures to be taken to protect the recreational and environmentally sensitive areas that would be threatened by a reasonable worst case oil spill scenario.

(10) Standards for determining a reasonable worst case oil spill. *However, for a nontank vessel, the reasonable worst case is a spill of the total volume of the largest fuel tank on the nontank vessel.*

~~(11) Each oil spill contingency plan includes a timetable for implementing the plan.~~

~~(12)~~
(11) Each oil spill contingency plan specifies an agent for service of process. The agent shall be located in this state.

(b) The regulations and guidelines adopted pursuant to this section shall also include provisions to provide public review and comment on submitted oil spill contingency plans ~~prior to approval.~~

(c) The regulations adopted pursuant to this section shall specifically address the types of equipment that will be necessary, the maximum time that will be allowed for deployment, the maximum distance to cooperating response entities, the amounts of dispersant, and the maximum time required for application, should the use of dispersants be approved. Upon a determination by the administrator that booming is appropriate at the site and necessary to provide best achievable protection, the regulations shall require that vessels engaged in lightering operations be boomed prior to the commencement of operations.

(d) The administrator shall adopt regulations and guidelines for oil spill contingency plans with regard to mobile transfer units, small marine fueling facilities, and vessels carrying oil as secondary cargo that acknowledge the reduced risk of damage from oil spills from those units, facilities, and vessels while maintaining the best achievable protection for the public health and safety and the environment.

(e) The regulations adopted pursuant to subdivision (d) shall be exempt from review by the Office of Administrative Law. Subsequent amendments and changes to the regulations shall not be exempt from *review by the* Office of Administrative Law ~~review.~~

~~(f) This section shall become effective on January 1, 2012.~~

SEC. 21. *Section 8670.29 of the Government Code is amended to read:*

1 8670.29. (a) In accordance with the rules, regulations, and
2 policies established by the administrator pursuant to Section
3 8670.28, an owner or operator of a ~~marine~~ facility, small marine
4 fueling facility, or mobile transfer unit, ~~prior to operating in the~~
5 ~~marine waters of the state or where an oil spill could impact marine~~
6 ~~waters; and~~ or an owner or operator of a tank vessel, nontank
7 vessel, or vessel carrying oil as secondary cargo, ~~before while~~
8 operating in the ~~marine~~ waters of the state *or where a spill could*
9 *impact waters of the state*, shall ~~prepare and implement~~ have an
10 oil spill contingency plan that has been submitted to, and approved
11 by, the administrator pursuant to Section 8670.31. An oil spill
12 contingency plan shall ensure the undertaking of prompt and
13 adequate response and removal action in case of ~~an oil~~ a spill, shall
14 be consistent with the California oil spill contingency plan, and
15 shall not conflict with the National Oil and Hazardous Substances
16 Pollution Contingency Plan (NCP), *Part 300 of Title 40 of the*
17 *Code of Federal Regulations*.

18 (b) An oil spill contingency plan shall, at a minimum, meet all
19 of the following requirements:

20 (1) Be a written document, reviewed for feasibility and
21 executability, and signed by the owner or operator, or ~~their~~ *his or*
22 *her* designee.

23 (2) Provide for the use of an incident command system to be
24 used during a spill.

25 (3) Provide procedures for reporting oil spills to local, state,
26 and federal agencies, and include a list of contacts to call in the
27 event of a drill, threatened spill, or spill.

28 (4) Describe the communication plans to be used during a spill,
29 *if different from those used by a recognized incident command*
30 *system*.

31 (5) Describe the strategies for the protection of environmentally
32 sensitive areas.

33 (6) Identify at least one rated OSRO for each rating level
34 established pursuant to Section 8670.30. Each identified rated
35 OSRO shall be directly responsible by contract, agreement, or
36 other approved means to provide oil spill response activities
37 pursuant to the oil spill contingency plan. A rated OSRO may
38 provide oil spill response activities individually, or in combination
39 with another rated OSRO, for a particular owner or operator.

40 (7) Identify a qualified individual.

(8) Provide the name, address, and telephone and facsimile numbers for an agent for service of process, located within the state and designated to receive legal documents on behalf of the owner or operator.

(9) Provide for training and drills on elements of the plan at least annually, with all elements of the plan subject to a drill at least once every three years.

(c) An oil spill contingency plan for a vessel shall also include, but is not limited to, all of the following requirements:

(1) The plan shall be submitted to the administrator at least seven days prior to the vessel entering waters of the state.

(2) The plan shall provide evidence of compliance with the International Safety Management Code, established by the International Maritime Organization, as applicable.

(3) If the oil spill contingency plan is for a tank vessel, the plan shall include both of the following:

(A) The plan shall specify oil and petroleum cargo capacity.

(B) The plan shall specify the types of oil and petroleum cargo carried.

(4) If the oil spill contingency plan is for a nontank vessel, the plan shall include both of the following:

(A) The plan shall specify the type and total amount of fuel carried.

(B) The plan shall specify the capacity of the largest fuel tank.

(d) An oil spill contingency plan for a ~~marine~~ facility shall also include, but is not limited to, all of the following provisions, *as appropriate*:

(1) Provisions for site security and control.

(2) Provisions for emergency medical treatment and first aid.

(3) Provisions for safety training, as required by state and federal safety laws for all personnel likely to be engaged in oil spill response.

(4) Provisions detailing site layout and locations of environmentally sensitive areas requiring special protection.

(5) Provisions for vessels that are in the operational control of the facility for loading and unloading.

(e) Unless preempted by federal law or regulations, an oil spill contingency plan for a railroad also shall include, but is not limited to, all of the following:

(1) A list of the types of train cars that may make up the consist.

1 (2) *A list of the types of oil and petroleum products that may be*
2 *transported.*

3 (3) *A map of track routes and facilities.*

4 (4) *A list, description, and map of any prestaged spill response*
5 *equipment and personnel for deployment of the equipment.*

6 ~~(e)~~

7 (f) The oil spill contingency plan shall be available to response
8 personnel and to relevant state and federal agencies for inspection
9 and review.

10 ~~(f)~~

11 (g) The oil spill contingency plan shall be reviewed periodically
12 and updated as necessary. All updates shall be submitted to the
13 administrator pursuant to this article.

14 ~~(g)~~

15 (h) In addition to the regulations adopted pursuant to Section
16 8670.28, the administrator shall adopt regulations and guidelines
17 to implement this section. The regulations and guidelines shall
18 provide for the best achievable protection of ~~coastal and marine~~
19 *waters and natural resources of the state.* The administrator may
20 establish additional oil spill contingency plan requirements,
21 including, but not limited to, requirements based on the different
22 geographic regions of the state. All regulations and guidelines shall
23 be developed in consultation with the Oil Spill Technical Advisory
24 Committee.

25 ~~(h) This section shall become operative on January 1, 2012.~~

26 (i) *Notwithstanding subdivision (a) and paragraph (6) of*
27 *subdivision (b), a vessel or facility operating where a spill could*
28 *impact state waters that are not tidally influenced does not have*
29 *to identify a rated OSRO in the contingency plan until January 1,*
30 *2016.*

31 SEC. 22. *Section 8670.30.5 of the Government Code is*
32 *amended to read:*

33 8670.30.5. (a) The administrator may review each oil spill
34 contingency plan that has been approved pursuant to Section
35 8670.29 to determine whether it complies with Sections 8670.28
36 and 8670.29.

37 (b) If the administrator finds the approved oil spill contingency
38 plan is deficient, the plan shall be returned to the operator with
39 written reasons why the approved plan was found inadequate and,
40 if practicable, suggested modifications or alternatives. The operator

1 shall submit a new or modified plan within ~~90~~ 30 days that
2 responds to the deficiencies identified by the administrator.

3 *SEC. 23. Section 8670.31 of the Government Code is amended*
4 *to read:*

5 8670.31. (a) Each oil spill contingency plan required under
6 this article shall be submitted to the administrator ~~before a tank~~
7 ~~vessel, nontank vessel, or vessel carrying oil as secondary cargo~~
8 ~~operates in the marine waters of the state, or before a marine~~
9 ~~facility, small marine fueling facility, or mobile transfer unit,~~
10 ~~operates in the marine waters of the state or where an oil spill~~
11 ~~therefrom could impact marine waters for review and approval.~~

12 (b) The administrator shall review each submitted contingency
13 plan to determine whether it complies with the administrator's
14 rules, policies, and regulations adopted pursuant to Section 8670.28
15 and 8670.29. *The administrator may issue a preliminary approval*
16 *pending final approval or disapproval.*

17 (c) Each contingency plan submitted shall be approved or
18 disapproved within ~~180~~ 30 days after receipt by the administrator.
19 The administrator may approve or disapprove portions of a plan.
20 A plan is not deemed approved until all portions are approved
21 pursuant to this section. The disapproved portion shall be subject
22 to the procedures contained in subdivision (d).

23 (d) If the administrator finds the submitted contingency plan is
24 inadequate under the rules, policies, and regulations of the
25 administrator, the plan shall be returned to the submitter with
26 written reasons why the plan was found inadequate and, if
27 practicable, suggested modifications or alternatives, if appropriate.
28 The submitter shall submit a new or modified plan within ~~90~~ 30
29 days after the earlier plan was returned, responding to the findings
30 and incorporating any suggested modifications. The resubmittal
31 shall be treated as a new submittal and processed according to the
32 provisions of this section, except that the resubmitted plan shall
33 be deemed approved unless the administrator acts pursuant to
34 subdivision (c). ~~Failure to gain approval after the second~~
35 ~~submission may be determined by the administrator to be a~~
36 ~~violation of this chapter.~~

37 (e) The administrator may make inspections and require drills
38 of any oil spill contingency plan that is submitted.

39 (f) After the plan has been approved, it shall be resubmitted
40 every five years thereafter. The administrator may require earlier

or more frequent resubmission, if warranted. Circumstances that would require an earlier resubmission include, but are not limited to, changes in regulations, new oil spill response technologies, deficiencies identified in the evaluation conducted pursuant to Section 8670.19, or a need for a different oil spill response because of increased need to protect endangered species habitat. The administrator may deny approval of the resubmitted plan if it is no longer considered adequate according to the adopted rules, regulations, and policies of the administrator at the time of resubmission.

(g) ~~(1)~~ Each *owner or operator* of a tank vessel, *nontank* vessel carrying oil as a secondary cargo, or ~~marine~~ facility who is required to file an oil spill response plan or update pursuant to provisions of federal law regulating ~~marine~~ oil spill response plans shall, ~~for informational purposes only~~, submit, *for informational purposes only and upon request of the administrator*, a copy of that plan or update to the administrator at the time that it is approved by the relevant federal agency.

~~(2) A tank vessel, vessel carrying oil as a secondary cargo, or marine facility operator is not required to submit a copy of the response plan or update specified in paragraph (1) to the administrator if either the vessel or facility is exempt from having to file a response plan with the state, or if the content of the plan submitted by the operator pursuant to Section 8670.29 is substantially the same as the federal response plan or update.~~

SEC. 24. Section 8670.32 of the Government Code is amended to read:

8670.32. (a) To reduce the risk of an oil spill as a result of fuel, cargo, and lube oil transfers, the administrator shall develop and implement a screening mechanism and a comprehensive risk-based monitoring program for inspecting the bunkering and lightering operations of vessels at anchor and alongside a dock. This program shall identify those bunkering and lightering operations that pose the highest risk of a pollution incident.

(b) The administrator shall ensure that all bunkering and lightering operations that, pursuant to subdivision (a), pose the highest risk of a pollution incident are routinely monitored and inspected. The administrator shall coordinate the monitoring and inspection program with the ~~United States~~ Coast Guard.

1 (c) The administrator shall establish regulations to provide for
2 the best achievable protection during bunkering and lightering
3 operations ~~in the marine environment~~.

4 (d) This section shall remain in effect only until January 1, 2015,
5 and as of that date is repealed, unless a later enacted statute, that
6 is enacted before January 1, 2015, deletes or extends that date.

7 *SEC. 25. Section 8670.33 of the Government Code is amended*
8 *to read:*

9 8670.33. (a) If the operator of a tank ship or tank barge for
10 which a contingency plan has not been approved desires to have
11 the tank ship or tank barge enter ~~marine~~ waters of the state, the
12 administrator may give approval by telephone or facsimile machine
13 for the entry of the tank ship or tank barge into ~~marine~~ waters *of*
14 *the state* under an approved contingency plan applicable to a
15 terminal or tank ship, if all of the following are met:

16 (1) The terminal or tank ship is the destination of the tank ship
17 or tank barge.

18 (2) The operator of the terminal or the tank ship provides the
19 administrator advance written assurance that the operator assumes
20 all responsibility for the operations of the tank ship or tank barge
21 while it is in ~~marine~~ waters *of the state* traveling to or from the
22 terminal. The assurance may be delivered by hand or by mail or
23 may be sent by facsimile machine, followed by delivery of the
24 original.

25 (3) The approved terminal or tank ship contingency plan
26 includes all conditions the administrator requires for the operations
27 of tank ship or tank barges traveling to and from the terminal.

28 (4) The tank ship or tank barge and its operations meet all
29 requirements of the contingency plan for the tank ship or terminal
30 that is the destination of the tank ship or tank barge.

31 (5) The tank ship or tank barge without an approved contingency
32 plan has not entered ~~marine~~ waters *of the state* more than once in
33 the 12-month period preceding the request made under this section.

34 (b) At all times that a tank ship or tank barge is in ~~marine~~ waters
35 *of the state* pursuant to subdivision (a), its operators and all their
36 agents and employees shall operate the vessel in accordance with
37 the applicable operations manual or, if there is an oil spill, in
38 accordance with the directions of the administrator and the
39 applicable contingency plan.

1 *SEC. 26. Section 8670.34 of the Government Code is amended*
2 *to read:*

3 8670.34. This article shall not apply to any tank vessel, nontank
4 vessel, or vessel carrying oil as a secondary cargo that enters
5 ~~marine~~ waters of the state because of imminent danger to the lives
6 of crew members or if entering ~~marine~~ waters of the state will
7 substantially aid in preventing an oil spill or other harm to public
8 safety or the environment, if the operators of the tank vessel,
9 nontank vessel, or vessel carrying oil as a secondary cargo comply
10 with all of the following:

11 (a) The operators or crew of the tank vessel, nontank vessel, or
12 vessel carrying oil as a secondary cargo ~~complies~~ *comply* at all
13 times with all orders and directions given by the administrator, or
14 his or her designee, while the tank vessel, nontank vessel, or vessel
15 carrying oil as a secondary cargo is in ~~marine~~ waters of the state,
16 unless the orders or directions are contradicted by orders or
17 directions of the Coast Guard.

18 (b) Except for fuel, oil may be transferred to or from the tank
19 vessel, nontank vessel, or vessel carrying oil as a secondary cargo
20 while it is in ~~marine~~ waters of the state only if permission is
21 obtained for the transfer of oil and one of the following conditions
22 is met:

- 23 (1) The transfer is necessary for the safety of the crew.
24 (2) The transfer is necessary to prevent harm to public safety
25 or the environment.
26 (3) An oil spill contingency plan is approved or made applicable
27 to the tank vessel, nontank vessel, or vessel carrying oil as a
28 secondary cargo, under subdivision (c).
29 (c) The tank vessel, nontank vessel, or vessel carrying oil as a
30 secondary cargo shall leave the ~~marine~~ waters of the state as soon
31 as it may do so without imminent risk of harm to the crew, public
32 safety, or the environment, unless an oil spill contingency plan is
33 approved or made applicable to it under this article.

34 *SEC. 27. Section 8670.35 of the Government Code is amended*
35 *to read:*

36 8670.35. (a) The administrator, taking into consideration the
37 California oil spill contingency plan, shall promulgate regulations
38 regarding the adequacy of oil spill ~~contingency plan~~ elements of
39 ~~business and hazardous materials~~ area plans required pursuant to
40 Section 25503 of the Health and Safety Code. In developing the

1 ~~guidelines, regulations,~~ the administrator shall consult with the
2 Oil Spill Technical Advisory Committee.

3 (b) ~~Any local government~~ *The administrator may offer, to a*
4 *unified program agency* with jurisdiction over or directly adjacent
5 to ~~marine waters may apply for of the state,~~ a grant to complete,
6 update, or revise an oil spill ~~contingency plan~~ *element of the area*
7 *plan.*

8 (c) ~~Each contingency plan~~ *oil spill* element established under
9 this section shall include provisions for training fire and police
10 personnel in oil spill response and cleanup equipment use and
11 operations.

12 (d) ~~Each contingency plan~~ *oil spill* element prepared under this
13 section shall be consistent with the local government's local coastal
14 program as certified under Section 30500 of the Public Resources
15 Code, the California oil spill contingency plan, and the National
16 Contingency Plan.

17 (e) ~~The~~ *If a grant is awarded, the* administrator shall review
18 and approve each ~~contingency plan~~ *oil spill* element established
19 pursuant to this section. If, upon review, the administrator
20 determines that the ~~contingency plan~~ *oil spill* element is inadequate,
21 the administrator shall return it to the agency that prepared it,
22 specifying the nature and extent of the inadequacies, and, if
23 practicable, suggesting modifications. ~~The local government unified~~
24 *program agency* shall submit a new or modified ~~plan~~ *element*
25 within 90 days after the ~~plan~~ *element* was returned, responding to
26 the findings and incorporating any suggested modifications.

27 (f) The administrator shall review the preparedness of ~~local~~
28 ~~governments~~ *unified program agencies* to determine whether a
29 program of grants for completing oil spill ~~contingency plan~~
30 elements is desirable and should be continued. If the administrator
31 determines that local government preparedness should be improved,
32 the administrator shall request the Legislature to appropriate funds
33 from the Oil Spill Prevention and Administration Fund for the
34 purposes of this section.

35 (g) ~~This section shall become operative on January 1, 2012.~~

36 SEC. 28. *Section 8670.36 of the Government Code is amended*
37 *to read:*

38 8670.36. (a) ~~The~~ administrator shall, within five working days
39 after receipt of a contingency plan prepared pursuant to Section
40 8670.28 or 8670.35, ~~send~~ *post* a notice that the plan is available

1 for review to the Oil Spill Technical Advisory Committee. The
2 administrator shall send a copy of the plan within two working
3 days after receiving a request from the Oil Spill Technical Advisory
4 Committee. The State Lands Commission and the California
5 Coastal Commission shall review the plans for facilities or local
6 governments within the coastal zone. The San Francisco Bay
7 Conservation and Development Commission shall review the plans
8 for marine facilities or local governments within the area described
9 in Sections 66610 and 29101 of the Public Resources Code. Any
10 state agency or committee that comments shall submit its comments
11 to the administrator within 60 15 days of receipt of the plan. The
12 administrator shall consider all comments in approving or
13 disapproving the plan.

14 ~~(b) This section shall become operative on January 1, 2012.~~

15 *SEC. 29. Section 8670.37 of the Government Code is amended*
16 *to read:*

17 8670.37. (a) The administrator, with the assistance of the State
18 Lands Commission, the California Coastal Commission, ~~and~~ the
19 executive director of the San Francisco Bay Conservation and
20 Development Commission, *or other appropriate agency*, shall
21 carry out studies with regard to improvements to contingency
22 planning and oil spill response equipment and operations.

23 (b) To the greatest extent possible, these studies shall be
24 coordinated with studies being done by the federal government,
25 and other appropriate state and international entities, and
26 duplication with the efforts of other entities shall be minimized.

27 (c) The administrator, the State Lands Commission, the
28 California Coastal Commission, ~~and the Executive Director~~
29 *executive director* of the San Francisco Bay Conservation and
30 Development Commission, *or other appropriate agency* may be
31 reimbursed for all costs incurred in carrying out the studies under
32 this section from the Oil Spill Prevention and Administration Fund.

33 *SEC. 30. Section 8670.37.5 of the Government Code is*
34 *amended to read:*

35 8670.37.5. (a) The administrator shall establish a network of
36 rescue and rehabilitation stations for ~~sea birds~~, *wildlife injured by*
37 *oil spills, including sea otters, otters* and other marine mammals.
38 In addition to rehabilitative care, the primary focus of the Oiled
39 Wildlife Care Network shall include proactive oiled wildlife search
40 and collection rescue efforts. These facilities shall be established

1 and maintained in a state of preparedness to provide the best
2 achievable treatment for ~~marine mammals~~ *wildlife, mammals, and*
3 birds affected by an oil spill in ~~marine~~ *waters of the state*. The
4 administrator shall consider all feasible management alternatives
5 for operation of the network.

6 (b) (1) The first rescue and rehabilitation station established
7 pursuant to this section shall be located within the sea otter range
8 on the central coast. The administrator *initially* shall establish
9 regional oiled wildlife rescue and rehabilitation facilities in the
10 Los Angeles Harbor area, the San Francisco Bay area, the San
11 Diego area, the Monterey Bay area, the Humboldt County area,
12 and the Santa Barbara area, ~~and. The administrator also~~ may
13 establish ~~those~~ facilities in other ~~coastal~~ areas of the state as the
14 administrator determines to be necessary. ~~One~~

15 (2) ~~One~~ or more of the oiled wildlife rescue and rehabilitation
16 stations shall be open to the public for educational purposes and
17 shall be available for ~~marine~~ wildlife health research. Wherever
18 possible in the establishment of these facilities, the administrator
19 shall improve existing authorized ~~marine-mammal~~ rehabilitation
20 facilities and may expand or take advantage of existing educational
21 or scientific programs and institutions for oiled wildlife
22 rehabilitation purposes. Expenditures shall be reviewed by the
23 agencies and organizations specified in subdivision (c).

24 (c) The administrator shall consult with the United States Fish
25 and Wildlife Service, the National Marine Fisheries Service, the
26 California Coastal Commission, the ~~Executive Director~~ *executive*
27 *director* of the San Francisco Bay Conservation and Development
28 Commission, the Marine Mammal Center, and ~~the~~ International
29 Bird Rescue ~~Center~~ in the design, planning, construction, and
30 operation of the rescue and rehabilitation stations. All proposals
31 for the rescue and rehabilitation stations shall be presented before
32 a public hearing prior to the construction and operation of any
33 rehabilitation station, and, upon completion of the coastal
34 protection element of the California oil spill contingency plan,
35 shall be consistent with the coastal protection element.

36 (d) The administrator may enter into agreements with nonprofit
37 organizations to establish and equip wildlife rescue and
38 rehabilitation stations and to ensure that they are operated in a
39 professional manner in keeping with the pertinent guidance
40 documents issued by the ~~Office of Spill Prevention and Response~~

1 ~~in the Department of Fish and Game~~ *administrator*. The
2 implementation of the agreement shall not constitute a California
3 public works project. The agreement shall be deemed a contract
4 for wildlife rehabilitation as authorized by Section 8670.61.5.

5 (e) In the event of a spill, the responsible party may request that
6 the administrator perform the rescue and rehabilitation of oiled
7 wildlife required of the responsible party pursuant to this chapter
8 if the responsible party and the administrator enter into an
9 agreement for the reimbursement of the administrator's costs
10 incurred in taking the requested action. If the administrator
11 performs the rescue and rehabilitation of oiled wildlife, the
12 administrator shall primarily utilize the network of rescue and
13 rehabilitation stations established pursuant to subdivision (a),
14 unless more immediate care is required. Any of those activities
15 conducted pursuant to this section or Section 8670.56.5 or
16 8670.61.5 shall be performed under the direction of the
17 administrator. This subdivision does not remove the responsible
18 party from liability for the costs of, ~~nor~~ *or* the responsibility for,
19 the rescue and rehabilitation of oiled wildlife, as established by
20 this chapter. This subdivision does not prohibit an owner or
21 operator from retaining, in a contingency plan prepared pursuant
22 to this article, wildlife rescue and rehabilitation services different
23 from the rescue and rehabilitation stations established pursuant to
24 this section.

25 (f) (1) The administrator shall appoint a rescue and
26 rehabilitation advisory board to advise the administrator regarding
27 operation of the network of rescue and rehabilitation stations
28 established pursuant to subdivision (a), including the economic
29 operation and maintenance of the network. For the purpose of
30 assisting the administrator in determining what constitutes the best
31 achievable treatment for oiled wildlife, the advisory board shall
32 provide recommendations to the administrator on the care achieved
33 by current standard treatment methods, new or alternative treatment
34 methods, the costs of treatment methods, and any other information
35 that the advisory board believes that the administrator might find
36 useful in making that determination. The administrator shall consult
37 with the advisory board in preparing the administrator's submission
38 to the Legislature pursuant to ~~subparagraph (A) of paragraph (2)~~
39 ~~of subdivision (1) of Section 8670.48~~ *subdivision (a) of Section*
40 *8670.40.5*. The administrator shall present the recommendations

1 of the advisory board to the Oil Spill Technical Advisory
2 Committee created pursuant to Article 8 (commencing with Section
3 8670.54), upon the request of the committee.

4 (2) The advisory board shall consist of a balance between
5 representatives of the oil industry, wildlife rehabilitation
6 organizations, and academia. One academic representative shall
7 be from a veterinary school within this state. The United States
8 Fish and Wildlife Service and the National Marine Fisheries
9 Service shall be requested to participate as ex officio members.

10 (3) (A) The Legislature hereby finds and declares that since
11 the administrator may rely on the expertise provided by the
12 volunteer members of the advisory board and may be guided by
13 their recommendations in making decisions that relate to the
14 operation of the network of rescue and rehabilitation stations, those
15 members should be entitled to the same immunity from liability
16 that is provided other public employees.

17 (B) Members of the advisory board, while performing functions
18 within the scope of advisory board duties, shall be entitled to the
19 same rights and immunities granted public employees by Article
20 3 (commencing with Section 820) of Chapter 1 of Part 2 of
21 Division 3.6 of Title 1. Those rights and immunities are deemed
22 to have attached, and shall attach, as of the date of appointment
23 of the member to the advisory board.

24 (g) The administrator shall ensure the state's ability to prevent
25 the contamination of wildlife and to identify, collect, rescue, and
26 treat oiled wildlife through all of the following:

27 (1) Providing for the recruitment and training of an adequate
28 network of wildlife specialists and volunteers from Oiled Wildlife
29 Care Network participant organizations who can be called into
30 immediate action in the event of an oil spill to assist in the field
31 with collection of live oiled wildlife. The training shall include a
32 process for certification of trained volunteers and renewal of
33 certifications. The initial wildlife rescue training shall include field
34 experience in species identification and appropriate field collection
35 techniques for species at risk in different spills. In addition to
36 training in wildlife rescue, the administrator shall provide for
37 appropriate hazardous materials training for new volunteers and
38 contract personnel, with refresher courses offered as necessary to
39 allow for continual readiness of search and collection teams. ~~The~~
40 ~~Office of Spill Prevention and Response in the Department of Fish~~

1 ~~and Game is not required~~ *Moneys in the Oil Spill Prevention and*
2 *Administration Fund shall not be used* to reimburse volunteers for
3 time or travel associated with required wildlife rescue or hazardous
4 materials training.

5 (2) Developing and implementing a plan for the provision of
6 emergency equipment for wildlife rescue in strategic locations to
7 facilitate ready deployment in the case of an oil spill. The
8 administrator shall ensure that the equipment identified as
9 necessary in his or her wildlife response plan is available and
10 deployed in a timely manner to assist in providing the best
11 achievable protection and collection efforts.

12 (3) Developing the capacity of the Oiled Wildlife Care Network
13 to recruit and train an adequate field team for collection of live
14 oiled wildlife, as specified in paragraph (1), by providing staffing
15 for field operations, coordination, and volunteer outreach for the
16 Oiled Wildlife Care Network. The duties of the field operations
17 and volunteer outreach staff shall include recruitment and
18 coordination of additional participation in the Oiled Wildlife Care
19 Network by other existing organizations with experience and
20 expertise in wildlife rescue and handling, including scientific
21 organizations, educational institutions, public agencies, and
22 nonprofit organizations dedicated to wildlife conservation, and
23 recruitment, training, and supervision of volunteers from Oiled
24 Wildlife Care Network participating organizations.

25 (4) Ensuring that qualified persons with experience and expertise
26 in wildlife rescue are assigned to oversee and supervise wildlife
27 recovery search and collection efforts, as specified in the
28 administrator's wildlife response plan. The administrator shall
29 provide for and ensure that all persons involved in field collection
30 of oiled wildlife receive training in search and capture techniques
31 and hazardous materials certification, as appropriate.

32 *SEC. 31. Section 8670.37.51 of the Government Code is*
33 *amended to read:*

34 8670.37.51. (a) ~~No~~ A tank vessel or vessel carrying oil as a
35 secondary cargo ~~may~~ *shall not* be used to transport oil across
36 ~~marine~~ waters of the state unless the *owner or operator has applied*
37 *for and* obtained a certificate of financial responsibility issued by
38 the administrator for that vessel or for the owner of all of the oil
39 contained in and to be transferred to or from that vessel.

1 (b) ~~No~~ *An* operator of a marine terminal within the state ~~may~~
2 *shall not* transfer oil to or from a tank vessel or vessel carrying oil
3 as a secondary cargo unless the operator of the marine terminal
4 has received a copy of a certificate of financial responsibility issued
5 by the administrator for the operator of that vessel or for all of the
6 oil contained in and to be transferred to or from that vessel.

7 (c) ~~No~~ *An* operator of a marine terminal within the state ~~may~~
8 *shall not* transfer oil to or from any vessel that is or is intended to
9 be used for transporting oil as cargo to or from a second vessel
10 unless the operator of the marine terminal has first received a copy
11 of a certificate of financial responsibility issued by the
12 administrator for the person responsible for both the first and
13 second vessels or all of the oil contained in both vessels, as well
14 as all the oil to be transferred to or from both vessels.

15 (d) ~~No person operate a marine facility unless the owner or~~
16 ~~operator of the marine facility has first obtained~~ *An owner or*
17 *operator of a facility where a spill could impact waters of the state*
18 *shall apply for and obtain* a certificate of financial responsibility
19 ~~from~~ *issued by* the administrator for the ~~marine facility or the oil~~
20 *to be handled, stored, or transported by the facility.*

21 (e) ~~No tank vessel or vessel carrying oil as a secondary cargo~~
22 ~~may be used to transport oil across marine waters of the state~~
23 ~~unless, at least 24 hours prior to the transport, the administrator~~
24 ~~has received both of the following:~~

25 (1) ~~A copy of a certificate applicable to that vessel or to all of~~
26 ~~the oil in that vessel at all times during transport.~~

27 (2) ~~A copy of a written statement by the holder of the applicable~~
28 ~~certificate authorizing its application to the vessel.~~

29 (e) *Pursuant to Section 8670.37.58, nontank vessels shall obtain*
30 *a certificate of financial responsibility.*

31 SEC. 32. *Section 8670.37.52 of the Government Code is*
32 *amended to read:*

33 8670.37.52. The certificate of financial responsibility shall be
34 conclusive evidence that the person or entity holding the certificate
35 is the party responsible for the specified vessel, ~~marine~~ facility, or
36 oil for purposes of determining liability pursuant to this chapter.

37 SEC. 33. *Section 8670.37.53 of the Government Code is*
38 *amended to read:*

39 8670.37.53. (a) To receive a certificate of financial
40 responsibility for a tank vessel or for all of the oil contained within

1 ~~such a~~ *that* vessel, the applicant shall demonstrate to the satisfaction
2 of the administrator the financial ability to pay at least one billion
3 dollars (\$1,000,000,000) for any damages that may arise during
4 the term of the certificate.

5 (b) The administrator may establish a lower standard of financial
6 responsibility for small tank barges, vessels carrying oil as a
7 secondary cargo, and small marine fueling facilities. The standard
8 shall be based on the quantity of oil that can be carried or stored
9 and the risk of spill into ~~marine~~ *waters of the state*. The
10 administrator shall not set a standard that is less than the expected
11 costs from a reasonable worst case oil spill into ~~marine~~ *waters of*
12 *the state*.

13 ~~(e)(1)~~
14 (c) (1) To receive a certificate of financial responsibility for a
15 ~~marine~~ facility, the applicant shall demonstrate to the satisfaction
16 of the administrator the financial ability to pay for any damages
17 that might arise during a reasonable worst case oil spill into ~~marine~~
18 *waters of the state* that results from the operations of the ~~marine~~
19 facility. The administrator shall consider criteria including, but
20 not necessarily limited to, the amount of oil that could be spilled
21 into ~~marine~~ *waters of the state* from the facility, the cost of cleaning
22 up spilled oil, the frequency of operations at the facility, and the
23 damages that could result from a spill.

24 ~~(2) The administrator may issue a certificate for a marine facility~~
25 ~~upon a lesser showing of financial resources for a period of not~~
26 ~~longer than three years if the administrator finds all of the~~
27 ~~following:~~

28 ~~(A) The marine facility was operating on January 1, 1991.~~

29 ~~(B) Continued operation is necessary to finance abandonment~~
30 ~~of the marine facility.~~

31 ~~(C) The financial resources the operator is able to demonstrate~~
32 ~~are reasonably sufficient to cover the damages from foreseeable~~
33 ~~spills from the facility.~~

34 (2) *The administrator shall adopt regulations to implement this*
35 *section.*

36 SEC. 34. *Section 8670.37.55 of the Government Code is*
37 *amended to read:*

38 8670.37.55. (a) An owner or operator of more than one tank
39 vessel, vessel carrying oil as a secondary cargo, nontank vessel,
40 or ~~marine~~ facility shall only be required to obtain one certificate

1 of financial responsibility for all of those vessels and ~~marine~~
2 facilities owned or operated.

3 (b) If a person holds a certificate for more than one tank vessel,
4 vessel carrying oil as a secondary cargo, nontank vessel, or ~~marine~~
5 facility and a spill or spills occurs from one or more of those
6 vessels or ~~marine~~ facilities for which the owner or operator may
7 be liable for damages in an amount exceeding 5 percent of the
8 financial resources reflected by the certificate, as determined by
9 the administrator, the certificate shall immediately be considered
10 inapplicable to any vessel or ~~marine~~ facility not associated with
11 the spill. In that event, the owner or operator shall demonstrate to
12 the satisfaction of the administrator the amount of financial ability
13 required pursuant to this article, as well as the financial ability to
14 pay all damages that arise or have arisen from the spill or spills
15 ~~which that~~ have occurred.

16 *SEC. 35. Section 8670.37.58 of the Government Code is*
17 *amended to read:*

18 8670.37.58. (a) A nontank vessel ~~required to have a~~
19 ~~contingency plan pursuant to this chapter~~ shall not enter ~~marine~~
20 waters of the state unless the nontank vessel owner or operator has
21 provided to the administrator evidence of financial responsibility
22 that demonstrates, to the administrator's satisfaction, the ability
23 to pay at least three hundred million dollars (\$300,000,000) to
24 cover damages caused by a spill, and the owner or operator of the
25 nontank vessel has obtained a certificate of financial responsibility
26 from the administrator for the nontank vessel.

27 (b) Notwithstanding subdivision (a), the administrator may
28 establish a lower standard of financial responsibility for a nontank
29 vessel that has a carrying capacity of 6,500 barrels of oil or less,
30 or for a nontank vessel that is owned and operated by California
31 or a federal agency and has a carrying capacity of 7,500 barrels of
32 oil or less. The standard shall be based upon the quantity of oil
33 that can be carried by the nontank vessel and the risk of an oil spill
34 into ~~marine~~ waters of the state. The administrator shall not set a
35 standard that is less than the expected cleanup costs and damages
36 from an oil spill into ~~marine~~ waters of the state.

37 (c) The administrator may adopt regulations to implement this
38 section.

39 *SEC. 36. Section 8670.40 of the Government Code is amended*
40 *to read:*

8670.40. (a) The State Board of Equalization shall collect a fee in an amount *annually* determined by the administrator to be sufficient *to pay the reasonable regulatory costs* to carry out the purposes set forth in subdivision (e), and a reasonable reserve for contingencies. ~~The annual assessment shall not exceed six and one-half cents (\$0.065) per barrel of crude oil or petroleum products. Beginning January 1, 2015, the annual assessment shall not exceed five cents (\$0.05) per barrel of crude oil or petroleum products.~~ *The oil spill prevention and administration fee shall be based on each barrel of crude oil or petroleum products, as described in subdivision (b).*

(b) (1) The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time that *the* crude oil is received at a marine terminal, *by any mode of delivery that passed over, across, under, or through waters of the state*, from within or outside the state, and upon a person who owns petroleum products at the time that those petroleum products are received at a marine terminal, *by any mode of delivery that passed over, across, under, or through waters of the state*, from outside this state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products ~~based on~~ *for* each barrel of crude oil or petroleum products ~~so received by means of a vessel operating in, through, or across the marine waters of the state. In addition, an operator of a pipeline shall pay the oil spill prevention and administration fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under, or through the marine waters of the state received.~~ *The*

(2) *The oil spill prevention and administration fee shall be imposed upon a person owning crude oil at the time the crude oil is received at a refinery within the state by any mode of delivery that passed over, across, under, or through waters of the state, whether from within or outside the state. The refinery shall collect the fee from the owner of the crude oil for each barrel of crude oil or petroleum products received.*

(3) ~~The fees shall be remitted to the board~~ *The State Board of Equalization* by the owner of the crude oil or petroleum products, *the refinery operator, or the marine terminal or pipeline operator* on the 25th day of the month based upon the number of barrels of crude oil or petroleum products received at a *refinery or* marine

terminal ~~or transported by pipeline~~ during the preceding month.
A fee shall not be imposed pursuant to this section with respect to crude oil or petroleum products if the person who would be liable for that fee, or responsible for its collection, establishes that the fee has *already* been collected by a *refinery or marine* terminal operator registered under this chapter or paid to the ~~board~~ *State Board of Equalization* with respect to the crude oil or petroleum product.

(4) The oil spill prevention and administration fee shall not be collected by a marine terminal operator or refinery operator or imposed on the owner of crude oil or petroleum products if the fee has been previously collected or paid on the crude oil or petroleum products at another marine terminal or refinery. It shall be the obligation of the marine terminal operator, refinery operator, or owner of crude oil or petroleum products to show that the fee has already been paid on the same crude oil or petroleum products.

~~(2)~~

(5) An owner of crude oil or petroleum products is liable for the fee until it has been paid to the ~~board~~ State Board of Equalization, except that payment to a refinery operator or marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

~~(3)~~

(6) On or before January 20, the administrator shall annually prepare a plan that projects revenues and expenses over three fiscal years, including the current year. Based on the plan, the administrator shall set the fee so that projected revenues, including any interest, are equivalent to expenses as reflected in the current Budget Act and in the proposed budget submitted by the Governor. In setting the fee, the administrator may allow for a surplus if the administrator finds that revenues will be exhausted during the period covered by the plan or that the surplus is necessary to cover possible contingencies. The administrator shall notify the ~~board~~ State Board of Equalization of the adjusted fee rate, which shall be rounded to no more than four decimal places, to be effective the first day of the month beginning not less than 30 days from the date of the notification.

(c) The moneys collected pursuant to subdivision (a) shall be deposited into the fund.

1 (d) The ~~board~~ *State Board of Equalization* shall collect the fee
2 and adopt regulations for implementing the fee collection program.

3 (e) The fee described in this section shall be collected solely
4 for all of the following purposes:

5 (1) To implement oil spill prevention programs through rules,
6 regulations, leasing policies, guidelines, and inspections and to
7 implement research into prevention and control technology.

8 (2) To carry out studies that may lead to improved oil spill
9 prevention and response.

10 (3) To finance environmental and economic studies relating to
11 the effects of oil spills.

12 (4) To implement, install, and maintain emergency programs,
13 equipment, and facilities to respond to, contain, and clean up oil
14 spills and to ensure that those operations will be carried out as
15 intended.

16 ~~(5) To respond to an imminent threat of a spill in accordance~~
17 ~~with the provisions of Section 8670.62 pertaining to threatened~~
18 ~~discharges. The cumulative amount of an expenditure for this~~
19 ~~purpose shall not exceed the amount of one hundred thousand~~
20 ~~dollars (\$100,000) in a fiscal year unless the administrator receives~~
21 ~~the approval of the Director of Finance and notification is given~~
22 ~~to the Joint Legislative Budget Committee. Commencing with the~~
23 ~~1993-94 fiscal year, and each fiscal year thereafter, it is the intent~~
24 ~~of the Legislature that the annual Budget Act contain an~~
25 ~~appropriation of one hundred thousand dollars (\$100,000) from~~
26 ~~the fund for the purpose of allowing the administrator to respond~~
27 ~~to threatened oil spills.~~

28 ~~(6)~~

29 (5) To reimburse the ~~board~~ *State Board of Equalization* for its
30 *reasonable* costs incurred to implement this chapter and to carry
31 out Part 24 (commencing with Section 46001) of Division 2 of the
32 Revenue and Taxation Code.

33 ~~(7)~~

34 ~~(6) To cover costs incurred by fund the Oiled Wildlife Care~~
35 ~~Network established by Section 8670.37.5 for training and field~~
36 ~~collection, and search and rescue activities, pursuant to subdivision~~
37 ~~(g) of Section 8670.37.5 pursuant to Section 8670.40.5.~~

38 (f) The moneys deposited in the fund shall not be used for
39 responding to ~~an oil~~ a spill.

1 (g) The moneys deposited in the fund shall not be used to
2 provide a loan to any other fund.

3 ~~(h) This section shall become operative on January 1, 2012.~~

4 (h) Every person who operates a refinery, a marine terminal in
5 waters of the state, or a pipeline shall register with the State Board
6 of Equalization, pursuant to Section 46101 of the Revenue and
7 Taxation Code.

8 SEC. 37. Section 8670.40.5 is added to the Government Code,
9 to read:

10 8670.40.5. (a) For each fiscal year, consistent with this article,
11 the administrator shall submit, as a proposed appropriation in the
12 Governor's Budget, an amount up to two million five hundred
13 thousand dollars (\$2,500,000) for the purpose of equipping,
14 operating, and maintaining the network of oiled wildlife rescue
15 and rehabilitation stations and proactive oiled wildlife search and
16 collection rescue efforts established pursuant to Section 8670.37.5
17 and for the support of technology development and research related
18 to oiled wildlife care.

19 (b) The administrator shall report to the Legislature, upon
20 request, on the progress and effectiveness of the network of oiled
21 wildlife rescue and rehabilitation stations established pursuant to
22 Section 8670.37.5 and the adequacy of the Oil Spill Prevention
23 and Administration Fund to meet the purposes for which the
24 network was established.

25 (c) At the administrator's request, the funds made available
26 pursuant to this section may be directly appropriated to a suitable
27 program for wildlife health and rehabilitation within a school of
28 veterinary medicine within this state, if an agreement exists,
29 consistent with this chapter, between the administrator and an
30 appropriate representative of the program for carrying out that
31 purpose. The administrator shall attempt to have an agreement in
32 place at all times. The agreement shall ensure that the training of,
33 and the care provided by, the program staff are at levels that are
34 consistent with those standards generally accepted within the
35 veterinary profession.

36 (d) The funds made available pursuant to this section shall not
37 be considered an offset to any other state funds appropriated to
38 the program, the program's associated school of veterinary
39 medicine, or the program's associated college or university. The
40 funds shall not be used for any other purpose. If an offset does

1 occur or the funds are used for an unintended purpose, the
2 administrator may terminate expenditure of any funds appropriated
3 pursuant to this section and the administrator may request a
4 reappropriation to accomplish the intended purpose. The
5 administrator shall annually review and approve the proposed
6 uses of any funds made available pursuant to this section.

7 SEC. 38. Section 8670.42 of the Government Code is amended
8 to read:

9 8670.42. (a) ~~The Department of Fish and Game~~ administrator
10 and the State Lands Commission, independently, shall contract
11 with the Department of Finance for the preparation of a detailed
12 report that shall be submitted on or before January 1, 2013, and
13 no less than once every four years thereafter, to the Governor and
14 the Legislature on the financial basis and programmatic
15 effectiveness of the state's oil spill prevention, response, and
16 preparedness program. This report shall include an analysis of all
17 of the oil spill prevention, response, and preparedness program's
18 major expenditures, fees and fines collected, staffing and equipment
19 levels, spills responded to, and other relevant issues. The report
20 shall recommend measures to improve the efficiency and
21 effectiveness of the state's oil spill prevention, response, and
22 preparedness program, including, but not limited to, measures to
23 modify existing contingency plan requirements, to improve
24 protection of sensitive shoreline sites, and to ensure adequate and
25 equitable funding for the state's oil spill prevention, response, and
26 preparedness program.

27 (b) A report to be submitted pursuant to subdivision (a) shall
28 be submitted in compliance with Section 9795.

29 SEC. 39. Section 8670.47.5 of the Government Code is
30 amended to read:

31 8670.47.5. The following shall be deposited into the fund:

32 (a) The fee required pursuant to Section 8670.48.

33 (b) Any federal funds received to pay for response, containment,
34 abatement, and rehabilitation costs from an oil spill in ~~marine~~
35 waters of the state.

36 (c) Any money borrowed by the Treasurer pursuant to Article
37 7.5 (commencing with Section 8670.53.1) or any draw on the
38 financial security obtained by the Treasurer pursuant to subdivision
39 (o) of Section 8670.48.

40 (d) Any interest earned on the moneys in the fund.

(e) Any costs recovered from responsible parties pursuant to Section 8670.53 and subdivision (e) of Section 8670.53.1.

SEC. 40. Section 8670.48 of the Government Code is amended to read:

8670.48. (a) (1) A uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), shall be imposed upon a person who owns petroleum products at the time the petroleum products are received at a marine terminal within this state by means of a vessel from a point of origin outside this state. The fee shall be *collected by the marine terminal and* remitted to the State Board of Equalization by the terminal operator on the 25th day of each month based upon the number of barrels of petroleum products received during the preceding month.

(2) An owner of petroleum products is liable for the fee until it has been paid to the state, except that payment to a marine terminal operator registered under this chapter is sufficient to relieve the owner from further liability for the fee.

(b) An operator of a pipeline shall also pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of petroleum products, as set by the administrator pursuant to subdivision (f), transported into the state by means of a pipeline operating across, under, or through the ~~marine~~ waters of the state. The fee shall be paid on the 25th day of each month based upon the number of barrels of petroleum products so transported into the state during the preceding month.

(c) ~~(1)~~ An operator of a refinery shall pay a uniform oil spill response fee in an amount not exceeding twenty-five cents (\$0.25) for each barrel of crude oil, as set by the administrator pursuant to subdivision (f), received at a refinery within the state *by any method of transport*. The fee shall be paid on the 25th day of each month based upon the number of barrels of crude oil so received during the preceding month.

~~(2) The fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer as defined in paragraph (3). The board shall not identify a company as exempt from the fee requirements of this section if that company was reorganized, sold,~~

1 ~~or otherwise modified with the intent of circumventing the~~
2 ~~requirements of this section.~~

3 ~~(3) For purposes of this chapter, “independent crude oil~~
4 ~~producer” means a person or entity producing crude oil within this~~
5 ~~state who does not refine crude oil into a product, and who does~~
6 ~~not possess or own a retail gasoline marketing facility.~~

7 (d) A marine terminal operator shall pay a uniform oil spill
8 response fee in an amount not exceeding twenty-five cents (\$0.25),
9 in accordance with subdivision (g), for each barrel of crude oil, as
10 set by the administrator pursuant to subdivision (f), that is
11 transported from within this state by means of a ~~marine~~ vessel to
12 a destination outside this state.

13 (e) An operator of a pipeline shall pay a uniform oil spill
14 response fee in an amount not exceeding twenty-five cents (\$0.25),
15 in accordance with subdivision (g), for each barrel of crude oil, as
16 set by the administrator pursuant to subdivision (f), transported
17 out of the state by pipeline.

18 (f) (1) The fees required pursuant to this section shall be
19 collected during any period for which the administrator determines
20 that collection is necessary for any of the following reasons:

21 (A) The amount in the fund is less than or equal to 95 percent
22 of the designated amount specified in subdivision (a) of Section
23 46012 of the Revenue and Taxation Code.

24 (B) Additional money is required to pay for the purposes
25 specified in subdivision (k).

26 (C) The revenue is necessary to repay a draw on a financial
27 security obtained by the Treasurer pursuant to subdivision (o) or
28 borrowing by the Treasurer pursuant to Article 7.5 (commencing
29 with Section 8670.53.1), including any principal, interest, premium,
30 fees, charges, or costs of any kind incurred in connection with
31 those borrowings or financial security.

32 (2) The administrator, in consultation with the State Board of
33 Equalization, and with the approval of the Treasurer, may direct
34 the State Board of Equalization to cease collecting the fee when
35 the administrator determines that further collection of the fee is
36 not necessary for the purposes specified in paragraph (1).

37 (3) The administrator, in consultation with the State Board of
38 Equalization, shall set the amount of the oil spill response fees.
39 The oil spill response fees shall be imposed on all feepayers in the
40 same amount. The administrator shall not set the amount of the

1 fee at less than twenty-five cents (\$0.25) for each barrel of
2 petroleum products or crude oil, unless the administrator finds that
3 the assessment of a lesser fee will cause the fund to reach the
4 designated amount specified in subdivision (a) of Section 46012
5 of the Revenue and Taxation Code within four months. The fee
6 shall not be less than twenty-five cents (\$0.25) for each barrel of
7 petroleum products or crude oil if the administrator has drawn
8 upon the financial security obtained by the Treasurer pursuant to
9 subdivision (o) or if the Treasurer has borrowed money pursuant
10 to Article 7.5 (commencing with Section 8670.53.1) and principal,
11 interest, premium, fees, charges, or costs of any kind incurred in
12 connection with those borrowings remain outstanding or unpaid,
13 unless the Treasurer has certified to the administrator that the
14 money in the fund is not necessary for the purposes specified in
15 paragraph (1).

16 (g) The fees imposed by subdivisions (d) and (e) shall be
17 imposed in any calendar year beginning the month following the
18 month when the total cumulative year-to-date barrels of crude oil
19 transported outside the state by all feepayers by means of vessel
20 or pipeline exceed 6 percent by volume of the total barrels of crude
21 oil and petroleum products subject to oil spill response fees under
22 subdivisions (a), (b), and (c) for the prior calendar year.

23 (h) For purposes of this chapter, “designated amount” means
24 the amounts specified in Section 46012 of the Revenue and
25 Taxation Code.

26 (i) The administrator, in consultation with the State Board of
27 Equalization and with the approval of the Treasurer, shall authorize
28 refunds of any money collected that is not necessary for the
29 purposes specified in paragraph (1) of subdivision (f). The State
30 Board of Equalization, as directed by the administrator, and in
31 accordance with Section 46653 of the Revenue and Taxation Code,
32 shall refund the excess amount of fees collected to each feepayer
33 who paid the fee to the state, in proportion to the amount that each
34 feepayer paid into the fund during the preceding 12 monthly
35 reporting periods in which there was a fee due, including the month
36 in which the fund exceeded the specified amount. If the total
37 amount of money in the fund exceeds the amount specified in this
38 subdivision by 10 percent or less, refunds need not be ordered by
39 the administrator. This section does not require the refund of excess

1 fees as provided in this subdivision more frequently than once
2 each year.

3 (j) The State Board of Equalization shall collect the fee and
4 adopt regulations implementing the fee collection program. All
5 fees collected pursuant to this section shall be deposited in the Oil
6 Spill Response Trust Fund.

7 (k) The fee described in this section shall be collected solely
8 for any of the following purposes:

9 (1) To provide funds to cover promptly the costs of response,
10 containment, and cleanup of oil spills into ~~marine~~ *waters of the*
11 *state*, including damage assessment costs; and wildlife
12 rehabilitation as provided in Section 8670.61.5.

13 (2) To cover response and cleanup costs and other damages
14 suffered by the state or other persons or entities from oil spills into
15 ~~marine waters, which of the state that~~ cannot otherwise be
16 compensated by responsible parties or the federal government.

17 (3) To pay claims for damages pursuant to Section 8670.51.

18 (4) To pay claims for damages, except for damages described
19 in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant
20 to Section 8670.51.1.

21 (5) To pay for the cost of obtaining financial security in the
22 amount specified in subdivision (b) of Section 46012 of the
23 Revenue and Taxation Code, as authorized by subdivision (o).

24 (6) To pay indemnity and related costs and expenses as
25 authorized by Section 8670.56.6.

26 (7) To pay principal, interest, premium, if any, and fees, charges,
27 and costs of any kind incurred in connection with moneys drawn
28 by the administrator on the financial security obtained by the
29 Treasurer pursuant to subdivision (o) or borrowed by the Treasurer
30 pursuant to Article 7.5 (commencing with Section 8670.53.1).

31 ~~(8) To pay for the costs of rescue, medical treatment,~~
32 ~~rehabilitation, and disposition of oiled wildlife, as incurred by the~~
33 ~~network of oiled wildlife rescue and rehabilitation stations created~~
34 ~~pursuant to Section 8670.37.5. [Reserved]~~

35 (9) *To respond to an imminent threat of a spill in accordance*
36 *with the provisions of Section 8670.62 pertaining to threatened*
37 *discharges.*

38 (l) ~~(I)~~ The interest that the state earns on the funds deposited
39 into the Oil Spill Response Trust Fund shall be deposited in the
40 fund and shall be used to maintain the fund at the designated

1 amount specified in subdivision (a) of Section 46012 of the
2 Revenue and Taxation Code. ~~Interest earned until July 1, 1998,~~
3 ~~on funds deposited pursuant to subdivision (a) of Section 46012~~
4 ~~of the Revenue and Taxation Code, as determined jointly by the~~
5 ~~Controller and the Director of Finance, shall be available upon~~
6 ~~appropriation by the Legislature in the Budget Act to establish,~~
7 ~~equip, operate, and maintain the network of rescue and~~
8 ~~rehabilitation stations for oiled wildlife as described in Section~~
9 ~~8670.37.5 and to support technology development and research~~
10 ~~related to oiled wildlife care. Interest earned on the financial~~
11 ~~security portion of the fund, required to be accessible pursuant to~~
12 ~~subdivision (b) of Section 46012 of the Revenue and Taxation~~
13 ~~Code shall not be available for that purpose. If the amount in the~~
14 ~~fund exceeds that designated amount, the interest not needed to~~
15 ~~equip, operate, and maintain the network of rescue and~~
16 ~~rehabilitation stations, or for appropriate technology development~~
17 ~~and research regarding oiled wildlife care, shall be deposited into~~
18 ~~the Oil Spill Prevention and Administration Fund, and shall be~~
19 ~~available for the purposes authorized by Article 6 (commencing~~
20 ~~with Section 8670.38).~~

21 (2) (A) ~~For each fiscal year, consistent with this article, the~~
22 ~~administrator shall submit, as a proposed appropriation in the~~
23 ~~Governor's Budget, an amount up to two million dollars~~
24 ~~(\$2,000,000) of the interest earned on the funds deposited into the~~
25 ~~Oil Spill Response Trust Fund for the purpose of equipping,~~
26 ~~operating, and maintaining the network of oiled wildlife rescue~~
27 ~~and rehabilitation stations and proactive oiled wildlife search and~~
28 ~~collection rescue efforts established pursuant to Section 8670.37.5~~
29 ~~and for support of technology development and research related~~
30 ~~to oiled wildlife care. The remaining interest, if any, shall be~~
31 ~~deposited into the Oil Spill Prevention and Administration Fund~~
32 ~~pursuant to paragraph (1).~~

33 (B) ~~The administrator shall report to the Legislature not later~~
34 ~~than June 30, 2002, on the progress and effectiveness of the~~
35 ~~network of oiled wildlife rescue and rehabilitation stations~~
36 ~~established pursuant to Section 8670.37.5, and the adequacy of~~
37 ~~the Oil Spill Response Trust Fund to meet the purposes for which~~
38 ~~it was established.~~

39 (C) ~~At the administrator's request, the funds made available~~
40 ~~pursuant to this paragraph may be directly appropriated to a suitable~~

~~program for wildlife health and rehabilitation within a school of veterinary medicine within this state, provided that an agreement exists, consistent with this chapter, between the administrator and an appropriate representative of the program for carrying out that purpose. The administrator shall attempt to have an agreement in place at all times. The agreement shall ensure that the training of, and the care provided by, the program staff are at levels that are consistent with those standards generally accepted within the veterinary profession.~~

~~(D) The funds made available pursuant to this paragraph shall not be considered an offset to any other state funds appropriated to the program, the program's associated school of veterinary medicine, or the program's associated college or university, and the funds shall not be used for any other purpose. If an offset does occur or the funds are used for an unintended purpose, expenditure of any appropriation of funds pursuant to this paragraph may be terminated by the administrator and the administrator may request a reappropriation to accomplish the intended purpose. The administrator shall annually review and approve the proposed uses of any funds made available pursuant to this paragraph.~~

(m) The Legislature finds and declares that effective response to oil spills requires that the state have available sufficient funds in a response fund. The Legislature further finds and declares that maintenance of that fund is of utmost importance to the state and that the money in the fund shall be used solely for the purposes specified in subdivision (k).

~~(n) It is the intent of the Legislature, in enacting this section, that the fee shall not be imposed by a refiner, or a person or entity acting as an agent for a refiner, on crude oil produced by an independent crude oil producer. [Reserved]~~

(o) The Treasurer shall obtain financial security, in the designated amount specified in subdivision (b) of Section 46012 of the Revenue and Taxation Code, in a form ~~which~~ *that*, in the event of an oil spill, may be drawn upon immediately by the administrator upon making the determinations required by paragraph (2) of subdivision (a) of Section 8670.49. The financial security may be obtained in any of the forms described in subdivision (b) of Section 8670.53.3, as determined by the Treasurer.

(p) This section does not limit the authority of the administrator to raise oil spill response fees pursuant to Section 8670.48.5.

SEC. 41. Section 8670.48.3 of the Government Code is amended to read:

8670.48.3. (a) Notwithstanding subparagraph (A) of paragraph (1) of subdivision (f) of Section 8670.48, a loan or other transfer of money from the fund to the General Fund pursuant to the Budget Act that reduces the balance of the Oil Spill Response Trust Fund to less than or equal to 95 percent of the designated amount specified in subdivision (a) of Section 46012 of the Revenue and Taxation Code shall not obligate the administrator to resume collection of the oil spill response fee otherwise required by this article if both of the following conditions are met:

(1) The annual Budget Act requires a transfer or loan from the fund to be repaid to the fund with interest calculated at a rate earned by the Pooled Money Investment Account as if the money had remained in the fund.

(2) The annual Budget Act requires all transfers or loans to be repaid to the fund on or before June 30, ~~2014~~ 2017.

(b) A transfer or loan described in subdivision (a) shall be repaid as soon as possible if a spill occurs and the administrator determines that response funds are needed immediately.

(c) If there is a conflict between this section and any other law or enactment, this section shall control.

~~(d) This section shall remain in effect until July 1, 2014, and as of that date is repealed.~~

(d) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2018, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 42. Section 8670.49 of the Government Code is amended to read:

8670.49. (a) (1) The administrator may only expend money from the fund to pay for any of the following, subject to the lien established in Section 8670.53.2:

(A) To pay the cost of obtaining financial security as authorized by paragraph (5) of subdivision (k) and subdivision (o) of Section 8670.48.

(B) To pay the principal, interest, premium, if any, and fees, charges, and costs of any kind incurred in connection with moneys

1 drawn by the administrator on the financial security obtained by
2 the Treasurer, or the moneys borrowed by the Treasurer, as
3 authorized by paragraph (7) of subdivision (k) of Section 8670.48.

4 ~~(C) To pay for the construction, equipping, operation, and~~
5 ~~maintenance of rescue and rehabilitation facilities, and technology~~
6 ~~development for oiled wildlife care from interest earned on money~~
7 ~~deposited in the fund as authorized by subdivision (l) of Section~~
8 ~~8670.48.~~

9 ~~(D) To pay for the costs of rescue, medical treatment,~~
10 ~~rehabilitation, and disposition of oiled wildlife, as incurred by the~~
11 ~~network of oiled wildlife rescue and rehabilitation stations pursuant~~
12 ~~to subdivision (f) of Section 8670.37.5.~~

13 ~~(E)~~

14 (C) To pay for the expansion, in the VTS area, pursuant to
15 Section 445 of the Harbors and Navigation Code, of the vessel
16 traffic service system (VTS system) authorized pursuant to
17 subdivision (f) of Section 8670.21.

18 (2) If a spill has occurred, the administrator may expend the
19 money in the fund for the purposes identified in paragraphs (1),
20 (2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only
21 upon making the following determinations:

22 (A) Except as authorized by Section 8670.51.1, a responsible
23 party does not exist or the responsible party is unable or unwilling
24 to provide adequate and timely cleanup and to pay for the damages
25 resulting from the spill. The administrator shall make a reasonable
26 effort to have the party responsible remove the oil or agree to pay
27 for any actions resulting from the spill that may be required by
28 law, provided that the efforts are not detrimental to fish, plant,
29 animal, or bird life in the affected waters. The reasonable effort
30 of the administrator shall include attempting to access the
31 responsible parties' insurance or other proof of financial
32 responsibility.

33 (B) Sufficient federal oil spill funds are not available or will
34 not be available in an adequate period of time.

35 (3) Notwithstanding any other provision of this subdivision, the
36 administrator may expend money from the fund for authorized
37 expenditures when a reimbursement procedure is in place to receive
38 reimbursements for those expenditures from federal oil spill funds.

39 (b) Upon making the determinations specified in paragraph (2)
40 of subdivision (a), the administrator shall immediately make

1 whatever payments are necessary for responding to, containing,
2 or cleaning up; the spill, including any wildlife rehabilitation
3 required by law and payment of claims pursuant to Sections
4 8670.51 and 8670.51.1, subject to the lien established by Section
5 8670.53.2.

6 *SEC. 43. Section 8670.50 of the Government Code is amended*
7 *to read:*

8 8670.50. (a) Money from the fund may only be expended to
9 cover the costs incurred by the state and local governments and
10 agencies for any of the following:

11 (1) Responding promptly to, containing, and cleaning up the
12 discharge, if those efforts are any of the following:

13 (A) Undertaken pursuant to the state and local oil spill
14 contingency plans established under this chapter, and the ~~marine~~
15 ~~response element of the California oil spill contingency plan~~
16 established under Article 3.5 (commencing with Section 8574.1)
17 of Chapter 7.

18 (B) Undertaken consistent with the standardized emergency
19 management system established pursuant to Section 8607.

20 (C) Undertaken at the direction of the administrator.

21 (2) Meeting the requirements of Section 8670.61.5; relating to
22 wildlife rehabilitation.

23 (3) Making the payments authorized by subdivision (k) of
24 Section 8670.48.

25 (b) In the event of an oil spill, the administrator shall make
26 whatever expenditures are necessary and appropriate from the fund
27 to cover the costs described in subdivision (a), subject to the lien
28 established pursuant to Section 8670.53.2.

29 *SEC. 44. Section 8670.51 of the Government Code is amended*
30 *to read:*

31 8670.51. (a) When a person has obtained a final judgment for
32 damages resulting from an oil spill in ~~marine~~ waters of the state,
33 but is unable, within one year after the date of its entry, to enforce
34 the judgment pursuant to Title 9 (commencing with Section
35 680.010) of the Code of Civil Procedure, or is unable to obtain
36 satisfaction of the judgment from the federal government within
37 90 additional days, the administrator shall pay an amount not to
38 exceed those amounts ~~which~~ *that* cannot be recovered from a
39 responsible party and the fund shall be subrogated to all rights,
40 claims, and causes of action that the claimant has under this

chapter, Article 3.5 (commencing with Section 8574.1) of Chapter 7, Section 8670.61.5, and Division 7.8 (commencing with Section 8750) of the Public Resources Code.

(b) Any person may apply to the fund for compensation for damages and losses suffered as a result of an oil spill in ~~marine~~ waters *of the state* under any of the following conditions:

(1) The responsible party or parties cannot be ascertained.

(2) A responsible party is not liable for noneconomic damages caused by another.

(3) Subdivision (i) of Section 8670.56.6 is applicable to the claim.

(c) The administrator shall not approve any claim in an amount ~~which~~ *that* exceeds the amount to which the person would otherwise be entitled pursuant to Section 8670.56.5, and shall pay claims from the fund ~~which~~ *that* are approved pursuant to this section.

SEC. 45. Section 8670.53 of the Government Code is amended to read:

8670.53. The Attorney General, in consultation with the administrator, shall undertake actions to recover all costs to the funds from any responsible party for an oil spill into ~~marine~~ waters *of the state* for which expenditures are made from the fund. The recovery of costs pursuant to this section shall not foreclose the Attorney General from any other actions allowed by law.

SEC. 46. Section 8670.54 of the Government Code is amended to read:

8670.54. (a) The Oil Spill Technical Advisory Committee, hereafter in this article, the committee, is hereby established to provide public input and independent judgment of the actions of the administrator. The committee shall consist of ~~10~~ *14* members, of whom ~~six~~ *eight* shall be appointed by the Governor, ~~two~~ *three* by the Speaker of the Assembly, and ~~two~~ *three* by the Senate Rules Committee. The appointments shall be made in the following manner:

(1) The Speaker of the ~~Assembly~~, *Assembly* and Senate ~~Rules~~ Committee *on Rules* shall each appoint ~~members~~ *a member* who shall be ~~representatives~~ *a representative* of the public.

(2) The Governor shall appoint a member who has a demonstrable knowledge of marine transportation.

1 (3) The Speaker of the Assembly and the Senate—Rules
2 Committee *on Rules* shall each appoint ~~a member~~ *two members*
3 who ~~has~~ *have* demonstrable knowledge of environmental protection
4 and the study of ecosystems.

5 (4) The Governor shall appoint a member who has served as a
6 local government elected official or who has worked for a local
7 government.

8 (5) The Governor shall appoint a member who has experience
9 in oil spill response and prevention programs.

10 (6) The Governor shall appoint a member who has been
11 employed in the petroleum industry.

12 (7) The Governor shall appoint a member who has worked in
13 state government.

14 (8) The Governor shall appoint a member who has demonstrable
15 knowledge of the dry cargo vessel industry.

16 (9) *The Governor shall appoint a member who has demonstrable*
17 *knowledge of the railroad industry.*

18 (10) *The Governor shall appoint a member who has*
19 *demonstrable knowledge of the oil production industry.*

20 (b) The committee shall meet as often as required, but at least
21 twice per year. Members shall be paid one hundred dollars (\$100)
22 per day for each meeting and all necessary travel expenses at state
23 per diem rates.

24 (c) The administrator and any personnel the administrator
25 determines to be appropriate shall serve as staff to the committee.

26 (d) A ~~chairman~~ *chair* and vice ~~chairman~~ *chair* shall be elected
27 by a majority vote of the committee.

28 (e) ~~This section shall become operative on January 1, 2012.~~

29 SEC. 47. *Section 8670.55 of the Government Code is amended*
30 *to read:*

31 8670.55. (a) The committee shall provide recommendations
32 to the administrator, the State Lands Commission, the California
33 Coastal Commission, ~~and~~ the San Francisco Bay Conservation
34 and Development Commission, *the Division of Oil, Gas, and*
35 *Geothermal Resources, the Office of the State Fire Marshal, and*
36 *the Public Utilities Commission*, on any provision of this chapter,
37 including the promulgation of all rules, regulations, guidelines,
38 and policies.

39 (b) The committee may, ~~at its own discretion~~, study, comment
40 on, or evaluate, *at its own discretion*, any aspect of oil spill

1 prevention and response in the state. To the greatest extent possible,
2 these studies shall be coordinated with studies being done by the
3 federal government, the administrator, the State Lands
4 Commission, the State Water Resources Control Board, and other
5 appropriate state and international entities. Duplication with the
6 efforts of other entities shall be minimized.

7 (c) The committee may attend any drills called pursuant to
8 Section ~~8601.10~~ 8670.10 or any oil spills, if practicable.

9 (d) The committee shall report biennially to the Governor and
10 the Legislature on its evaluation of oil spill response and
11 preparedness programs within the state and may prepare and send
12 any additional reports it determines to be appropriate to the
13 Governor and the Legislature.

14 ~~(e) On or before August 1, 2005, the committee shall review~~
15 ~~the Department of Finance report required under Section 8670.42~~
16 ~~and prepare and submit to the Governor and the Legislature~~
17 ~~comments on the report, including, but not limited to,~~
18 ~~recommendations for improving the state's oil spill prevention,~~
19 ~~response, and preparedness program.~~

20 (f) ~~This section shall become operative on January 1, 2012.~~

21 *SEC. 48. Section 8670.56.5 of the Government Code is*
22 *amended to read:*

23 8670.56.5. (a) A responsible party, as defined in Section
24 8670.3, shall be absolutely liable without regard to fault for any
25 damages incurred by any injured party that arise out of, or are
26 caused by a spill ~~or inland spill~~.

27 (b) A responsible person is not liable to an injured party under
28 this section for any of the following:

29 (1) Damages, other than costs of removal incurred by the state
30 or a local government, caused solely by any act of war, hostilities,
31 civil war, or insurrection or by an unanticipated grave natural
32 disaster or other act of God of an exceptional, inevitable, and
33 irresistible character, ~~which~~ *that* could not have been prevented
34 or avoided by the exercise of due care or foresight.

35 (2) Damages caused solely by the negligence or intentional
36 malfeasance of that injured party.

37 (3) Damages caused solely by the criminal act of a third party
38 other than the defendant or an agent or employee of the defendant.

39 (4) Natural seepage not caused by a responsible party.

1 (5) Discharge or leaking of oil or natural gas from a private
2 pleasure boat or vessel.

3 (6) Damages that arise out of, or are caused by, a discharge that
4 is authorized by a state or federal permit.

5 (c) The defenses provided in subdivision (b) shall not be
6 available to a responsible person who fails to comply with Sections
7 8670.25, 8670.25.5, 8670.27, and 8670.62.

8 (d) Upon motion and sufficient showing by a party deemed to
9 be responsible under this section, the court shall join to the action
10 any other party who may be responsible under this section.

11 (e) In determining whether a party is a responsible party under
12 this section, the court shall consider the results of chemical or other
13 scientific tests conducted to determine whether oil or other
14 substances produced, discharged, or controlled by the defendant
15 matches the oil or other substance that caused the damage to the
16 injured party. The defendant shall have the burden of producing
17 the results of tests of samples of the substance that caused the
18 injury and of substances for which the defendant is responsible,
19 unless it is not possible to conduct the tests because of
20 unavailability of samples to test or because the substance is not
21 one for which reliable tests have been developed. At the request
22 of a party, any other party shall provide samples of oil or other
23 substances within its possession or control for testing.

24 (f) The court may award reasonable costs of the suit, ~~attorneys'~~
25 ~~attorney's~~ fees, and the costs of necessary expert witnesses to a
26 prevailing plaintiff. The court may award reasonable costs of the
27 suit and ~~attorneys'~~ ~~attorney's~~ fees to a prevailing defendant if the
28 court finds that the plaintiff commenced or prosecuted the suit
29 ~~under~~ *pursuant to* this section in bad faith or solely for purposes
30 of harassing the defendant.

31 (g) This section does not prohibit a person from bringing an
32 action for damages caused by oil or by exploration, under any
33 other provision or principle of law, including, but not limited to,
34 common law. However, damages shall not be awarded pursuant
35 to this section to an injured party for loss or injury for which the
36 party is or has been awarded damages under any other provision
37 or principle of law. Subdivision (b) does not create a defense not
38 otherwise available regarding an action brought under any other
39 provision or principle of law, including, but not limited to, common
40 law.

1 (h) Damages for which responsible parties are liable under this
2 section include the following:

3 (1) All costs of response, containment, cleanup, removal, and
4 treatment, including, but not limited to, monitoring and
5 administration costs incurred pursuant to the California oil spill
6 contingency plan or actions taken pursuant to directions by the
7 administrator.

8 (2) Injury to, or economic losses resulting from destruction of
9 or injury to, real or personal property, which shall be recoverable
10 by any claimant who has an ownership or leasehold interest in
11 property.

12 (3) Injury to, destruction of or loss of, natural resources,
13 including, but not limited to, the reasonable costs of rehabilitating
14 wildlife, habitat, and other resources and the reasonable costs of
15 assessing that injury, destruction, or loss, in an action brought by
16 the state, a county, city, or district. Damages for the loss of natural
17 resources may be determined by any reasonable method, including,
18 but not limited to, determination according to the costs of restoring
19 the lost resource.

20 (4) Loss of subsistence use of natural resources, which shall be
21 recoverable by a claimant who so uses natural resources that have
22 been injured, destroyed, or lost.

23 (5) Loss of taxes, royalties, rents, or net profit shares caused by
24 the injury, destruction, loss, or impairment of use of real property,
25 personal property, or natural resources.

26 (6) Loss of profits or impairment of earning capacity due to the
27 injury, destruction, or loss of real property, personal property, or
28 natural resources, which shall be recoverable by any claimant who
29 derives at least 25 percent of his or her earnings from the activities
30 that utilize the property or natural resources, or, if those activities
31 are seasonal in nature, 25 percent of his or her earnings during the
32 applicable season.

33 (7) Loss of use and enjoyment of natural resources, public
34 beaches, and other public resources or facilities, in an action
35 brought by the state, a county, city, or district.

36 (i) Except as provided in Section 1431.2 of the Civil Code,
37 liability under this section shall be joint and several. However, this
38 section does not bar a cause of action that a responsible party has
39 or would have, by reason of subrogation or otherwise, against a
40 person.

(j) This section does not apply to claims for damages for personal injury or wrongful death, and does not limit the right of a person to bring an action for personal injury or wrongful death ~~under~~ pursuant to any provision or principle of law.

(k) Payments made by a responsible party to cover liabilities arising from a discharge of oil, whether under this division or any other provision of federal, state, or local law, shall not be charged against royalties, rents, or net profits owed to the United States, the state, or any other public entity.

(l) An action that a private or public individual or entity may have against a responsible party under this section may be brought directly by the individual or entity or by the state on behalf of the individual or entity. However, the state shall not pursue an action on behalf of a private individual or entity that requests the state not to pursue that action.

(m) For the purposes of this section, “vessels” means vessels as defined in Section 21 of the Harbors and Navigation Code.

SEC. 49. Section 8670.56.6 of the Government Code is amended to read:

8670.56.6. (a) (1) Except as provided in subdivisions (b) and (d), and subject to subdivision (c), ~~no~~ a person, including, but not limited to, an oil spill cooperative, its agents, subcontractors, or employees, shall *not* be liable under this chapter or the laws of the state to any person for costs, damages, or other claims or expenses as a result of actions taken or omitted in good faith in the course of rendering care, assistance, or advice in accordance with the National Contingency Plan, the California oil spill contingency plan, or at the direction of the administrator, onsite coordinator, or the Coast Guard in response to a spill or threatened spill ~~of oil~~.

(2) The qualified immunity under this section shall not apply to any oil spill response action that is inconsistent with the following:

(A) The directions of the unified command, consisting of at least the Coast Guard and the administrator.

(B) In the absence of a unified command, the directions of the administrator pursuant to Section 8670.27.

(C) In the absence of directions pursuant to subparagraph (A) or (B), applicable oil spill contingency plans implemented under this division.

1 (3) Nothing in this section shall, in any manner or respect, affect
2 or impair any cause of action against or any liability of any person
3 or persons responsible for the spill, for the discharged oil, or for
4 the vessel, terminal, pipeline, or facility from which the oil was
5 discharged. The responsible person or persons shall remain liable
6 for any and all damages arising from the discharge, including
7 damages arising from improperly carried out response efforts, as
8 otherwise provided by law.

9 (b) Nothing in this section shall, in any manner or respect, affect
10 or impair any cause of action against or any liability of any party
11 or parties responsible for the spill, or the responsible party's agents,
12 employees, or subcontractors, except persons immunized under
13 subdivision (a) for response efforts, for the discharged oil, or for
14 the vessel, terminal, pipeline, or ~~marine~~ facility from which the
15 oil was discharged.

16 (c) The responsible party or parties shall be subject to both of
17 the following:

18 (1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,
19 or any other ~~provision of~~ law, be strictly and jointly and severally
20 liable for all damages arising pursuant to subdivision (h) of Section
21 8670.56.5 from the response efforts of its agents, employees,
22 subcontractors, or an oil spill cooperative of which it is a member
23 or with which it has a contract or other arrangement for cleanup
24 of its oil spills, unless it would have a defense to the original spill.

25 (2) Remain strictly liable for any and all damages arising from
26 the response efforts of a person other than a person specified in
27 paragraph (1).

28 (d) Nothing in this section shall immunize a cooperative or any
29 other person from liability for acts of gross negligence or willful
30 misconduct in connection with the cleanup of a spill.

31 (e) This section does not apply to any action for personal injury
32 or wrongful death.

33 (f) As used in this section, a "cooperative" means an
34 organization of private persons ~~which~~ *that* is established for the
35 primary purpose and activity of preventing or rendering care,
36 assistance, or advice in response to a spill or threatened spill.

37 (g) Except for the responsible party, membership in a
38 cooperative shall not, ~~in and of itself~~, be grounds, *in and of itself*,
39 for liability resulting from cleanup activities of the cooperative.

(h) For purposes of this section, there shall be a rebuttable presumption that an act or omission described in subdivision (a) was taken in good faith.

(i) In any situation in which immunity is granted pursuant to subdivision (a) and a responsible party is not liable, is not liable for noneconomic damages caused by another, or is partially or totally insolvent, the fund provided for in Article 7 (commencing with Section 8670.46) shall, ~~in accordance with its terms,~~ reimburse, *in accordance with its terms*, claims of any injured party for which a person who is granted immunity pursuant to this section would otherwise be liable.

(j) (1) The immunity granted by this section shall only apply to response efforts that are undertaken after the administrator certifies that contracts with qualified and responsible persons are in place to ensure an adequate and expeditious response to any foreseeable oil spill that may occur in ~~marine~~ waters *of the state* for which the responsible party (A) cannot be identified or (B) is unable or unwilling to respond, contain, and clean up the oil spill in an adequate and timely manner. In negotiating these contracts, the administrator shall, ~~to the maximum extent practicable,~~ procure, *to the maximum extent practicable*, the services of persons who are willing to respond to oil spills with no, or lesser, immunity than that conferred by this section, but, in no event, a greater immunity. The administrator shall make the certification required by this subdivision on an annual basis. Upon certification, the immunity conferred by this section shall apply to all response efforts undertaken during the calendar year to which the certification applies. In the absence of the certification required by this subdivision, the immunity conferred by this section shall not attach to any response efforts undertaken by any person in ~~marine~~ waters *of the state*.

(2) In addition to the authority to negotiate contracts described in paragraph (1), the administrator may also negotiate and enter into indemnification agreements with qualified and financially responsible persons to respond to oil spills that may occur in ~~marine~~ waters *of the state* for which the responsible party (A) cannot be identified or (B) is unable or unwilling to respond, contain, and clean up the oil spill in an adequate and timely manner.

(3) The administrator may indemnify response contractors for (A) all damages payable by means of settlement or judgment that

1 arise from response efforts to which the immunity conferred by
2 this section would otherwise apply, and (B) reasonably related
3 legal costs and expenses incurred by the responder, provided that
4 indemnification shall only apply to response efforts undertaken
5 after the expiration of any immunity that may exist as the result
6 of the contract negotiations authorized in this subdivision. In
7 negotiating these contracts, the administrator shall, ~~to the maximum~~
8 ~~extent practicable~~, *procure, to the maximum extent practicable*,
9 the services of persons who are willing to respond to oil spills with
10 no, or as little, right to indemnification as possible. All
11 indemnification shall be paid by the administrator from the Oil
12 Spill Response Trust Fund.

13 (4) (A) The contracts required by this section, and any other
14 contracts entered into by the administrator for response,
15 containment, or cleanup of an existing spill, *or for response of an*
16 *imminent threat of a spill*, the payment of which is to be made
17 from the Oil Spill Response Trust Fund created pursuant to Section
18 8670.46, ~~or for response to an imminent threat of a spill, the~~
19 ~~payment of which is to be made out of the Oil Spill Prevention~~
20 ~~and Administration Fund created pursuant to Section 8670.38~~;
21 shall be exempt from Part 2 (commencing with Section 10100) of
22 Division 2 of the Public Contract Code and Article 6 (commencing
23 with Section 999) of Chapter 6 of Division 4 of the Military and
24 Veterans Code.

25 (B) The exemption specified in subparagraph (A) applies only
26 to contracts for which the services are used for a period of less
27 than 90 days, cumulatively, per year.

28 (C) This paragraph shall not be construed as limiting the
29 administrator's authority to exercise the emergency powers granted
30 pursuant to subdivision (c) of Section 8670.62, including the
31 authority to enter into emergency contracts that are exempt from
32 approval by the Department of General Services.

33 (k) (1) With regard to a person who is regularly engaged in the
34 business of responding to oil spills, the immunity conferred by
35 this section shall not apply to any response efforts by that person
36 that occur later than 60 days after the first day the person's response
37 efforts commence.

38 (2) Notwithstanding the limitation contained in paragraph (1),
39 the administrator may, ~~upon making all the following findings~~;
40 extend, *upon making all the following findings*, the period of time,

1 not to exceed 30 days, during which the immunity conferred by
2 this section applies to response efforts:

3 (A) Due to inadequate or incomplete containment and
4 stabilization, there exists a substantial probability that the size of
5 the spill will significantly expand and (i) threaten previously
6 uncontaminated ~~marine or land~~ resources, (ii) threaten already
7 contaminated ~~marine or land~~ resources with substantial additional
8 contamination, or (iii) otherwise endanger the public health and
9 safety or harm the environment.

10 (B) The remaining work is of a difficult or perilous nature that
11 extension of the immunity is clearly in the public interest.

12 (C) No other qualified and financially responsible contractor is
13 prepared and willing to complete the response effort in the absence
14 of the immunity, or a lesser immunity, as negotiated by contract.

15 (3) The administrator shall provide five days' notice of his or
16 her proposed decision to either extend, or not extend, the immunity
17 conferred by this section. Interested parties shall be given an
18 opportunity to present oral and written evidence at an informal
19 hearing. In making his or her proposed decision, the administrator
20 shall specifically seek and consider the advice of the relevant Coast
21 Guard representative. The administrator's decision to not extend
22 the immunity shall be announced at least 10 working days before
23 the expiration of the immunity to provide persons an opportunity
24 to terminate their response efforts as contemplated by paragraph
25 (4).

26 (4) ~~No~~ A person or their agents, subcontractors, or employees
27 shall *not* incur any liability under this chapter or any other
28 provision of law solely as a result of that person's decision to
29 terminate their response efforts because of the expiration of the
30 immunity conferred by this section. A person's decision to
31 terminate response efforts because of the expiration of the
32 immunity conferred by this section shall not in any manner impair,
33 curtail, limit, or otherwise affect the immunity conferred on the
34 person with regard to the person's response efforts undertaken
35 during the period of time the immunity applied to those response
36 efforts.

37 (5) The immunity granted under this section shall attach, without
38 the limitation contained in this subdivision, to the response efforts
39 of any person who is not regularly engaged in the business of
40 responding to oil spills. A person who is not regularly engaged in

1 the business of responding to oil spills includes, but is not limited
2 to, (A) a person who is primarily dedicated to the preservation and
3 rehabilitation of wildlife and (B) a person who derives his or her
4 livelihood primarily from fishing.

5 (l) As used in this section, “response efforts” means rendering
6 care, assistance, or advice in accordance with the National
7 Contingency Plan, the California oil spill contingency plan, or at
8 the direction of the administrator, ~~onsite coordinator,~~ *United States*
9 *Environmental Protection Agency*, or the Coast Guard in response
10 to a spill or threatened spill into ~~marine~~ *waters of the state*.

11 SEC. 50. Section 8670.61.5 of the Government Code is
12 amended to read:

13 8670.61.5. (a) For purposes of this chapter, “wildlife
14 rehabilitation” means those actions that are necessary to fully
15 mitigate for the damage *from a spill* caused to wildlife, fisheries,
16 wildlife habitat, and fisheries habitat, ~~including beaches, from a~~
17 ~~spill or inland spill~~.

18 (b) Responsible parties shall fully mitigate adverse impacts to
19 wildlife, fisheries, wildlife habitat, and fisheries habitat. Full
20 mitigation shall be provided by successfully carrying out
21 environmental projects or funding restoration activities required
22 by the administrator in carrying out projects complying with the
23 requirements of this section. Responsible parties are also liable
24 for the costs incurred by the administrator or other government
25 agencies in carrying out this section.

26 (c) If any significant wildlife rehabilitation is necessary, the
27 administrator may require the responsible party to prepare and
28 submit to the administrator, and to implement, a wildlife
29 rehabilitation plan. The plan shall describe the actions that will be
30 implemented to fully meet the requirements of subdivision (b),
31 describe contingency measures that will be carried out in the event
32 that any of the plan actions are not fully successful, provide a
33 reasonable implementation schedule, describe the monitoring and
34 compliance program, and provide a financing plan. The
35 administrator shall review and determine whether to approve the
36 plan within 60 days of submittal. Before approving a plan, the
37 administrator shall first find that the implementation of the plan
38 will fully mitigate the adverse impacts to wildlife, fisheries, wildlife
39 habitat, and fisheries habitat. If the habitat contains beaches that
40 are or were used for recreational purposes, the Department of Parks

1 and Recreation shall review the plan and provide comments to the
2 administrator.

3 (d) The plan shall place first priority on avoiding and minimizing
4 any adverse impacts. For impacts that do occur, the plan shall
5 provide for full onsite restoration of the damaged resource to the
6 extent feasible. To the extent that full onsite restoration is not
7 feasible, the plan shall provide for offsite in-kind mitigation to the
8 extent feasible. To the extent that adverse impacts still have not
9 been fully mitigated, the plan shall provide for the enhancement
10 of other similar resources to the extent necessary to meet the
11 requirements of subdivision (b). In evaluating whether a wildlife
12 rehabilitation plan is adequate, the administrator may use the
13 habitat evaluation *methods or* procedures established by the United
14 States Fish and Wildlife Service or any other reasonable methods
15 as determined by the ~~Director of Department of Fish and Game~~
16 *Wildlife*.

17 (e) The administrator shall prepare regulations to implement
18 this section. The regulations shall include deadlines for the
19 submittal of plans. In establishing the deadlines, the administrator
20 shall consider circumstances such as the size of the spill and the
21 time needed to assess damage and mitigation.

22 *SEC. 51. Section 8670.62 of the Government Code is amended*
23 *to read:*

24 8670.62. (a) Any person who discharges oil into ~~marine~~ waters
25 *of the state*, upon order of the administrator, shall do all of the
26 following:

- 27 (1) Clean up the oil.
28 (2) Abate the effects of the discharge.
29 (3) In the case of a threatened discharge, take other necessary
30 remedial action.

31 (b) Upon failure of any person to comply with a cleanup or
32 abatement order, the Attorney General or a district attorney, at the
33 request of the administrator, shall petition the superior court for
34 that county for the issuance of an injunction requiring the person
35 to comply with the order. In any ~~such~~ suit, the court shall have
36 jurisdiction to grant a prohibitory or mandatory injunction, either
37 preliminary or permanent, as the facts may warrant.

38 (c) Consistent with the state contingency plan, the administrator
39 may expend available money to perform any response;
40 containment; cleanup; wildlife rehabilitation, which includes

1 assessment of resource injuries and damages, or remedial work
2 required pursuant to subdivision (a)—~~which~~ *that*, in the
3 administrator’s judgment, is required by the circumstances or the
4 urgency of prompt action required to prevent pollution, nuisance,
5 or injury to the environment of the state. The action may be taken
6 in default of, or in addition to, remedial work by the responsible
7 party or other persons, and regardless of whether injunctive relief
8 is sought. The administrator may perform the work in cooperation
9 with any other governmental agency, and may use rented tools or
10 equipment, either with *or without* operators furnished—~~or~~
11 ~~unoperated~~. Notwithstanding any other ~~provisions of~~ law, the
12 administrator may enter into oral contracts for the work, and the
13 contracts, whether written or oral, may include provisions for
14 equipment rental and the furnishing of labor and materials
15 necessary to accomplish the work. The contracts shall be exempt
16 from Part 2 (commencing with Section 10100) of Division 2 of
17 the Public Contract Code and Article 6 (commencing with Section
18 999) of Chapter 6 of Division 4 of the Military and Veterans Code.

19 (d) If the discharge is cleaned up, or attempted to be cleaned
20 up, the effects thereof abated, or, in the case of threatened pollution
21 or nuisance, other necessary remedial action is taken by any
22 governmental agency, the person or persons who discharged the
23 waste, discharged the oil, or threatened to cause or permit the
24 discharge of the oil within the meaning of subdivision (a); shall
25 be liable to that governmental agency for the reasonable costs
26 actually incurred in cleaning up that waste, abating the effects
27 thereof, or taking other remedial action. The amount of the costs
28 shall be recoverable in a civil action by, and paid to, the applicable
29 governmental agency and the administrator, to the extent the
30 administrator contributed to the cleanup costs from the Oil Spill
31 Response Trust Fund or other available funds.

32 (e) If, despite reasonable effort by the administrator to identify
33 the party responsible for the discharge of oil or the condition of
34 pollution or nuisance, the person is not identified at the time
35 cleanup, abatement, or remedial work must be performed, the
36 administrator shall not be required to issue an order under this
37 section. The absence of a responsible party shall not in any way
38 limit the powers of the administrator under this section.

39 (f) ~~“Threaten,” for purposes of this section,~~ *For purposes of this*
40 *section, “threaten” means a condition creating a substantial*

1 probability of harm, when the probability and potential extent of
2 harm makes it reasonably necessary to take immediate action to
3 prevent, reduce, or mitigate damages to persons, property, or
4 natural resources.

5 *SEC. 52. Section 8670.64 of the Government Code is amended*
6 *to read:*

7 8670.64. (a) A person who commits any of the following acts;
8 shall, upon conviction, be punished by imprisonment in a county
9 jail for not more than one year or by imprisonment pursuant to
10 subdivision (h) of Section 1170 of the Penal Code:

11 (1) Except as provided in Section 8670.27, knowingly fails to
12 follow the direction or orders of the administrator in connection
13 with an oil spill.

14 (2) Knowingly fails to notify the Coast Guard that a vessel is
15 disabled within one hour of the disability and the vessel, while
16 disabled, causes a discharge of oil ~~which~~ *that* enters marine waters.
17 For the purposes of this paragraph, “vessel” means a vessel, as
18 defined in Section 21 of the Harbors and Navigation Code, of 300
19 gross-registered tons or more.

20 (3) Knowingly engages in or causes the discharge or spill of oil
21 into ~~marine~~ *waters of the state*, or a person who reasonably should
22 have known that he or she was engaging in or causing the discharge
23 or spill of oil into ~~marine~~ *waters of the state*, unless the discharge
24 is authorized by the United States, the state, or another agency
25 with appropriate jurisdiction.

26 (4) Knowingly fails to begin cleanup, abatement, or removal of
27 spilled oil as required in Section 8670.25.

28 (b) The court shall also impose upon a person convicted of
29 violating subdivision (a), a fine of not less than five thousand
30 dollars (\$5,000) or more than five hundred thousand dollars
31 (\$500,000) for each violation. For purposes of this subdivision,
32 each day or partial day that a violation occurs is a separate
33 violation.

34 (c) (1) A person who knowingly does any of the acts specified
35 in paragraph (2) shall, upon conviction, be punished by a fine of
36 not less than two thousand five hundred dollars (\$2,500) or more
37 than two hundred fifty thousand dollars (\$250,000), or by
38 imprisonment in a county jail for not more than one year, or by
39 both the fine and imprisonment. Each day or partial day that a
40 violation occurs is a separate violation. If the conviction is for a

1 second or subsequent violation of this subdivision, the person shall
2 be punished by imprisonment pursuant to subdivision (h) of Section
3 1170 of the Penal Code, or in a county jail for not more than one
4 year, or by a fine of not less than five thousand dollars (\$5,000)
5 or more than five hundred thousand dollars (\$500,000), or by both
6 that fine and imprisonment:

7 (2) The acts subject to this subdivision are all of the following:

8 (A) Failing to notify the Office of Emergency Services in
9 violation of Section 8670.25.5.

10 (B) Knowingly making a false or misleading ~~marine~~ oil spill
11 report to the Office of Emergency Services.

12 (C) Continuing operations for which an oil spill contingency
13 plan is required without an oil spill contingency plan approved
14 pursuant to Article 5 (commencing with Section 8670.28).

15 (D) Except as provided in Section 8670.27, knowingly failing
16 to follow the material provisions of an applicable oil spill
17 contingency plan.

18 *SEC. 53. Section 8670.66 of the Government Code is amended*
19 *to read:*

20 8670.66. (a) Any person who intentionally or negligently does
21 any of the following acts shall be subject to a civil penalty for a
22 spill of not less than fifty thousand dollars (\$50,000) or more than
23 one million dollars (\$1,000,000), ~~or for an inland spill not to exceed~~
24 ~~fifty thousand dollars (\$50,000)~~, for each violation, and each day
25 or partial day that a violation occurs is a separate violation:

26 (1) Except as provided in Section 8670.27, fails to follow the
27 direction or orders of the administrator in connection with a spill
28 or inland spill.

29 (2) Fails to notify the Coast Guard that a vessel is disabled
30 within one hour of the disability and the vessel, while disabled,
31 causes a spill that enters ~~marine~~ waters *of the state*. For ~~the~~
32 purposes of this paragraph, “vessel” means a vessel, as defined in
33 Section 21 of the Harbors and Navigation Code, of 300 gross
34 ~~registered~~ tons or more.

35 (3) Is responsible for a spill ~~or inland spill~~, unless the discharge
36 is authorized by the United States, the state, or other agency with
37 appropriate jurisdiction.

38 (4) Fails to begin cleanup, abatement, or removal of oil as
39 required in Section 8670.25.

(b) Except as provided in subdivision (a), any person who intentionally or negligently violates any provision of this chapter, or Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any permit, rule, regulation, standard, or requirement issued or adopted pursuant to those provisions, shall be liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.

(c) ~~No~~A person shall *not* be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.67 for the same act or failure to act.

SEC. 54. Section 8670.67 of the Government Code is amended to read:

8670.67. (a) Any person who intentionally or negligently does any of the following acts shall be subject to an administrative civil penalty for a spill not to exceed two hundred thousand dollars (\$200,000), ~~or for an inland spill not to exceed fifty thousand dollars (\$50,000)~~, for each violation as imposed by the administrator pursuant to Section 8670.68, and each day or partial day that a violation occurs is a separate violation:

(1) Except as provided in Section 8670.27, fails to follow the applicable contingency plans or the direction or orders of the administrator in connection with a spill or inland spill.

(2) Fails to notify the Coast Guard that a vessel is disabled within one hour of the disability and the vessel, while disabled, causes a discharge that enters ~~marine~~ waters *of the state* or inland waters. For the purposes of this paragraph, “vessel” means a vessel, as defined in Section 21 of the Harbors and Navigation Code, of 300 gross ~~registered~~ tons or more.

(3) Is responsible for a spill ~~or inland spill~~, unless the discharge is authorized by the United States, the state, or other agency with appropriate jurisdiction.

(4) Fails to begin cleanup, abatement, or removal of spilled oil as required by Section 8670.25.

(b) Except as provided in subdivision (a), any person who intentionally or negligently violates any provision of this chapter, or Division 7.8 (commencing with Section 8750) of the Public Resources Code, or any permit, rule, regulation, standard, cease and desist order, or requirement issued or adopted pursuant to

those provisions, shall be liable for an administrative civil penalty as imposed by the administrator pursuant to Section 8670.68, not to exceed one hundred thousand dollars (\$100,000) for each violation of a separate provision, or, for continuing violations, for each day that violation continues.

(c) ~~No~~ A person shall *not* be liable for a civil penalty imposed under this section and for a civil penalty imposed pursuant to Section 8670.66 for the same act or failure to act.

SEC. 55. Section 8670.67.5 of the Government Code is amended to read:

8670.67.5. (a) Any person who without regard to intent or negligence causes or permits a spill ~~or inland spill~~ shall be strictly liable civilly in accordance with subdivision (b) or (c).

(b) A penalty may be administratively imposed by the administrator in accordance with Section 8670.68 ~~in an amount not to exceed ten dollars (\$10) per gallon of oil released for an inland spill, and~~ in an amount not to exceed twenty dollars (\$20) per gallon for a spill. The amount of the penalty shall be reduced for every gallon of released oil that is recovered and properly disposed of in accordance with applicable law.

(c) Whenever the release of oil resulted from gross negligence or reckless conduct, the administrator shall, in accordance with Section 8670.68, impose a penalty ~~in the amount of thirty dollars (\$30) per gallon of oil released for an inland spill, and~~ in an amount not to exceed sixty dollars (\$60) *per gallon* for a spill. The amount of the penalty shall be reduced for every gallon of released oil that is recovered and properly disposed of in accordance with applicable law.

(d) The administrator shall adopt regulations governing the method for determining the amount of oil that is cleaned up.

SEC. 56. Section 8670.69.4 of the Government Code is amended to read:

8670.69.4. (a) When the administrator determines that any person has undertaken, or is threatening to undertake, any activity or procedure that (1) requires a permit, certificate, approval, or authorization under this chapter, without securing a permit, *certificate, approval, or authorization*, or (2) is inconsistent with any of the permits, certificates, rules, regulations, guidelines, or authorizations; previously issued or adopted by the administrator, or (3) threatens to cause or substantially increases the risk of

1 unauthorized discharge of oil into the ~~marine~~ waters of the state,
2 the administrator may issue an order requiring that person to cease
3 and desist.

4 (b) Any cease and desist order issued by the administrator may
5 be subject to ~~such~~ terms and conditions as the administrator may
6 determine are necessary to ensure compliance with this division.

7 (c) Any cease and desist order issued by the administrator shall
8 become null and void 90 days after issuance.

9 (d) A cease and desist order issued by the administrator shall
10 be effective upon the issuance thereof, and copies shall be served
11 immediately by certified mail upon the person or governmental
12 agency being charged with the actual or threatened violation.

13 (e) Any cease and desist order issued by the administrator shall
14 be consistent with subdivision (a) of Section 8670.27.

15 *SEC. 57. Section 8670.69.7 of the Government Code is*
16 *repealed.*

17 ~~8670.69.7. All penalties collected under this article for inland~~
18 ~~spills shall be deposited into the Fish and Wildlife Pollution~~
19 ~~Account in the Fish and Game Preservation Fund and be available~~
20 ~~for expenditure in accordance with Section 12017 of the Fish and~~
21 ~~Game Code.~~

22 *SEC. 58. Section 8670.71 of the Government Code is amended*
23 *to read:*

24 8670.71. (a) The administrator shall fund only those projects
25 approved by the Environmental Enhancement Committee.

26 (b) For ~~the~~ purposes of this article, an enhancement project is
27 a project that acquires habitat for preservation, or improves habitat
28 quality and ecosystem function above baseline conditions, and that
29 meets all of the following requirements:

30 (1) Is located within or immediately adjacent to ~~California~~
31 ~~marine waters of the state~~, as defined in ~~subdivision (i)~~ of Section
32 8670.3.

33 (2) Has measurable outcomes within a predetermined timeframe.

34 (3) Is designed to acquire, restore, or improve habitat or restore
35 ecosystem function, or both, to benefit fish and wildlife.

36 *SEC. 59. Section 8670.95 is added to the Government Code,*
37 *to read:*

38 8670.95. *If any provision of this chapter or the application*
39 *thereof to any person or circumstances is held invalid, that*
40 *invalidity shall not affect other provisions or applications of the*

chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SEC. 60. Section 449 of the Harbors and Navigation Code is amended to read:

449. (a) The marine exchange and its officers and directors are subject to Section 5047.5 of the Corporations Code to the extent that the marine exchange meets the criteria specified in that section.

(b) Nothing in this section shall be deemed to include the marine exchange or its officers, directors, employees, or representatives within the meaning of “responsible party” as defined in subdivision (q) of Section 8670.3 of the Government Code and subdivision (p) of Section 8750 of the Public Resources Code for the purposes of the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Article 3.5 (commencing with Section 8574.1) of Chapter 7 and Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code and Division 7.8 (commencing with Section 8750) of the Public Resources Code).

SEC. 61. Section 46002 of the Revenue and Taxation Code is amended to read:

46002. The collection and administration of the fees referred to in Sections 46051 and 46052 shall be governed by the definitions contained in Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code, unless expressly otherwise provided by the definitions contained in and this part.

SEC. 62. Section 46006 of the Revenue and Taxation Code is amended to read:

46006. “Administrator” means the ~~chief deputy director of the Department of Fish and Game~~ person appointed by the Governor pursuant to Section 8670.4 of the Government Code to implement the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act (Chapter 7.4 (commencing with Section 8670.1) of Division 1 of Title 2 of the Government Code).

SEC. 63. Section 46007 of the Revenue and Taxation Code is amended to read:

46007. “Barges” means ~~any relatively flat-bottomed, waterborne vessel which is propelled by being pulled or pushed by another vessel, and is constructed or adapted to carry crude oil or petroleum products in commercial quantities as cargo vessels~~

1 *that carry oil in commercial quantities as cargo but are not*
2 *equipped with a means of self-propulsion.*

3 *SEC. 64. Section 46008 of the Revenue and Taxation Code is*
4 *repealed.*

5 ~~46008. “Barrel” means 42 gallons of crude oil or petroleum~~
6 ~~products.~~

7 *SEC. 65. Section 46010 of the Revenue and Taxation Code is*
8 *amended to read:*

9 46010. “Crude oil” means petroleum in an unrefined or natural
10 state, including condensate and natural gasoline, *and including*
11 *substances that enhance, cut, thin, or reduce viscosity.*

12 *SEC. 66. Section 46011 of the Revenue and Taxation Code is*
13 *repealed.*

14 ~~46011. “Discharge” means any release of at least one barrel of~~
15 ~~oil into marine waters which is not authorized by any federal, state,~~
16 ~~or local government entity.~~

17 *SEC. 67. Section 46011 is added to the Revenue and Taxation*
18 *Code, to read:*

19 46011. (a) “Facility” means any of the following located in
20 state waters or located where an oil spill may impact state waters:

21 (1) A building, structure, installation, or equipment used in oil
22 exploration, oil well drilling operations, oil production, oil refining,
23 oil storage, oil gathering, oil processing, oil transfer, oil
24 distribution, or oil transportation.

25 (2) A marine terminal.

26 (3) A pipeline that transports oil.

27 (4) A railroad that transports oil as cargo.

28 (5) A drill ship, semisubmersible drilling platform, jack-up type
29 drilling rig, or any other floating or temporary drilling platform.

30 (b) “Facility” does not include any of the following:

31 (1) A vessel, except a vessel located and used for any purpose
32 described in paragraph (5) of subdivision (a).

33 (2) An owner or operator subject to Chapter 6.67 (commencing
34 with Section 25270) of or Chapter 6.75 (commencing with Section
35 25299.10) of Division 20 of the Health and Safety Code.

36 (3) Operations on a farm, nursery, logging site, or construction
37 site that are either of the following:

38 (A) Do not exceed 20,000 gallons in a single storage tank.

39 (B) Have a useable tank storage capacity not exceeding 75,000
40 gallons.

1 (4) A small craft refueling dock.

2 SEC. 68. Section 46013 of the Revenue and Taxation Code is
3 amended to read:

4 46013. "Feepayer" means any person ~~who may be~~ liable for
5 the payment of a fee imposed by either Section 8670.40 or 8670.48
6 of the Government Code.

7 SEC. 69. Section 46014 of the Revenue and Taxation Code is
8 repealed.

9 ~~46014. "Independent crude oil producer" means any person or~~
10 ~~entity producing crude oil within this state who does not refine~~
11 ~~crude oil into product, and who does not own or operate any retail~~
12 ~~gasoline marketing facilities.~~

13 SEC. 70. Section 46015 of the Revenue and Taxation Code is
14 repealed.

15 ~~46015. "Local government" means any chartered or general~~
16 ~~law city, chartered or general law county, or any city and county.~~

17 SEC. 71. Section 46016 of the Revenue and Taxation Code is
18 repealed.

19 ~~46016. "Marine facility" means any facility of any kind, other~~
20 ~~than a vessel, which is or was used for the purposes of exploring~~
21 ~~for, drilling for, producing, storing, handling, transferring,~~
22 ~~processing, refining, or transporting crude oil or petroleum products~~
23 ~~and is located in marine waters, or is located where a discharge~~
24 ~~could impact marine waters unless the facility, (1) is subject to~~
25 ~~Chapter 6.67 (commencing with Section 25270) or Chapter 6.75~~
26 ~~(commencing with Section 25299.10) of Division 20 of the Health~~
27 ~~and Safety Code or, (2) is placed on a farm, nursery, logging site,~~
28 ~~small craft refueling dock as defined in Section 8670.3 of the~~
29 ~~Government Code, or construction site and does not exceed 20,000~~
30 ~~gallons in a single storage tank. For the purposes of this part, a~~
31 ~~drill ship, semisubmersible drilling platform, jack-up type drilling~~
32 ~~rig, or any other floating or temporary drilling platform is a "marine~~
33 ~~facility."~~

34 SEC. 72. Section 46017 of the Revenue and Taxation Code is
35 amended to read:

36 46017. "Marine terminal" means any ~~marine~~ facility used for
37 transferring crude oil or petroleum products to or from tankers or
38 barges. For the purposes of this part, a marine terminal includes
39 all piping not integrally connected to a tank facility as defined in

1 subdivision-~~(k)~~ (n) of Section 25270.2 of the Health and Safety
2 Code.

3 *SEC. 73. Section 46018 of the Revenue and Taxation Code is*
4 *repealed.*

5 ~~46018. “Marine waters” means those waters subject to tidal~~
6 ~~influence, and includes the waterways used for waterborne~~
7 ~~commercial vessel traffic to the Port of Sacramento and the Port~~
8 ~~of Stockton.~~

9 *SEC. 74. Section 46018 is added to the Revenue and Taxation*
10 *Code, to read:*

11 *46018. “Oil” means any kind of petroleum, liquid*
12 *hydrocarbons, or petroleum products or any fraction or residues*
13 *therefrom, including, but not limited to, crude oil, bunker fuel,*
14 *gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed*
15 *with waste, and liquid distillates from unprocessed natural gas.*

16 *SEC. 75. Section 46019 of the Revenue and Taxation Code is*
17 *repealed.*

18 ~~46019. (a) “Operator” means any of the following:~~

19 ~~(1) Any person who owns, operates, charters by demise, or~~
20 ~~leases a vessel.~~

21 ~~(2) Any person who owns or operates a marine facility.~~

22 ~~(3) Any person who owns or operates a marine pipeline.~~

23 ~~(4) Any person who owns or operates a refinery.~~

24 ~~(b) “Operator” does not include a person who, without~~
25 ~~participating in the management of a vessel or marine facility,~~
26 ~~holds indicia of ownership primarily to protect his or her security~~
27 ~~interest in the vessel or marine facility. Also, “operator” does not~~
28 ~~include any person who owns the land beneath a marine facility~~
29 ~~or the facility itself if the person is not involved in the operation~~
30 ~~of the facility.~~

31 *SEC. 76. Section 46023 of the Revenue and Taxation Code is*
32 *amended to read:*

33 *46023. “Refinery” means a facility or location which that*
34 *refines crude oil, including condensate and natural gasoline, into*
35 *petroleum products, lubricating oils, coke, or asphalt.*

36 *SEC. 77. Section 46024 of the Revenue and Taxation Code is*
37 *repealed.*

38 ~~46024. “Responsible party” or “party responsible” means any~~
39 ~~of the following:~~

1 ~~(a) The owner or transporter of crude oil or petroleum products~~
2 ~~or a person or entity accepting responsibility for the crude oil or~~
3 ~~petroleum products.~~

4 ~~(b) The owner, operator, or lessee of, or person who charters~~
5 ~~by demise, any vessel or marine facility, or a person or entity~~
6 ~~accepting responsibility for the vessel or marine facility.~~

7 ~~SEC. 78. Section 46025 of the Revenue and Taxation Code is~~
8 ~~repealed.~~

9 ~~46025. “Spill” means any release of at least one barrel of crude~~
10 ~~oil or petroleum products into marine waters which is not~~
11 ~~authorized by any federal, state, or local government entity.~~

12 ~~SEC. 79. Section 46027 of the Revenue and Taxation Code is~~
13 ~~repealed.~~

14 ~~46027. “State oil spill contingency plan” means the California~~
15 ~~oil spill contingency plan prepared pursuant to Article 3.5~~
16 ~~(commencing with Section 8574.1) of Chapter 7 of Division 1 of~~
17 ~~Title 2 of the Government Code.~~

18 ~~SEC. 80. Section 46027 is added to the Revenue and Taxation~~
19 ~~Code, to read:~~

20 ~~46027. “State waters” or “waters of the state” means any~~
21 ~~surface water, including saline waters, marine waters, and~~
22 ~~freshwaters, within the boundaries of the state but does not include~~
23 ~~groundwater.~~

24 ~~SEC. 81. Section 46028 of the Revenue and Taxation Code is~~
25 ~~amended to read:~~

26 ~~46028. “Tanker” means any a self-propelled, waterborne vessel;~~
27 ~~that is constructed or adapted for the carriage of crude oil or~~
28 ~~petroleum products in bulk or in commercial quantities as cargo.~~

29 ~~SEC. 82. Section 46101 of the Revenue and Taxation Code is~~
30 ~~amended to read:~~

31 ~~46101. Every person who operates an oil refinery in this state,~~
32 ~~a marine terminal in marine waters of the state, or operates a~~
33 ~~pipeline across, under, or through marine waters or any pipeline~~
34 ~~to transport crude oil or petroleum products out of the state shall~~
35 ~~register with the board.~~

36 ~~SEC. 83. Section 13272 of the Water Code is amended to read:~~

37 ~~13272. (a) Except as provided by subdivision (b), any person~~
38 ~~who, without regard to intent or negligence, causes or permits any~~
39 ~~oil or petroleum product to be discharged in or on any waters of~~
40 ~~the state, or discharged or deposited where it is, or probably will~~

1 be, discharged in or on any waters of the state, shall, as soon as
2 (1) that person has knowledge of the discharge, (2) notification is
3 possible, and (3) notification can be provided without substantially
4 impeding cleanup or other emergency measures, immediately
5 notify the Office of Emergency Services of the discharge in
6 accordance with the spill reporting provision of the California oil
7 spill contingency plan adopted pursuant to Article 3.5 (commencing
8 with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the
9 Government Code. ~~This section shall not apply to spills of oil into~~
10 ~~marine waters as defined in subdivision (f) of Section 8670.3 of~~
11 ~~the Government Code.~~

12 (b) The notification required by this section shall not apply to
13 a discharge in compliance with waste discharge requirements or
14 other provisions of this division.

15 (c) Any person who fails to provide the notice required by this
16 section is guilty of a misdemeanor and shall be punished by a fine
17 of not less than five hundred dollars (\$500) or more than five
18 thousand dollars (\$5,000) per day for each day of failure to notify,
19 or imprisonment of not more than one year, or both. Except where
20 a discharge to the waters of this state would have occurred but for
21 cleanup or emergency response by a public agency, this subdivision
22 shall not apply to any discharge to land ~~which~~ *that* does not result
23 in a discharge to the waters of this state. This subdivision shall not
24 apply to any person who is fined by the federal government for a
25 failure to report a discharge of oil.

26 (d) Notification received pursuant to this section or information
27 obtained by use of that notification shall not be used against any
28 person providing the notification in any criminal case, except in
29 a prosecution for perjury or giving a false statement.

30 (e) Immediate notification to the appropriate regional board of
31 the discharge, in accordance with reporting requirements set under
32 Section 13267 or 13383, shall constitute compliance with the
33 requirements of subdivision (a).

34 (f) The reportable quantity for oil or petroleum products shall
35 be one barrel (42 gallons) or more, by direct discharge to the
36 receiving waters, unless a more restrictive reporting standard for
37 a particular body of water is adopted.

38 *SEC. 84. (a) The Director of Finance may make available for*
39 *expenditure in the 2014–15 fiscal year from the Oil Spill Prevention*
40 *and Administration Fund, established pursuant to Section 8670.38*

1 *of the Government Code, an augmentation of Item 0860-001-0320*
2 *of the Budget Act of 2014 in an amount equal to the reasonable*
3 *costs incurred by the State Board of Equalization associated with*
4 *amendments made to Section 8670.40 of the Government Code in*
5 *the 2013–14 Regular Session.*

6 *(b) Any augmentation shall be authorized no sooner than 30*
7 *days following the transmittal of the approval to the Chairperson*
8 *of the Joint Legislative Budget Committee.*

9 *SEC. 85. No reimbursement is required by this act pursuant*
10 *to Section 6 of Article XIII B of the California Constitution because*
11 *the only costs that may be incurred by a local agency or school*
12 *district will be incurred because this act creates a new crime or*
13 *infraction, eliminates a crime or infraction, or changes the penalty*
14 *for a crime or infraction, within the meaning of Section 17556 of*
15 *the Government Code, or changes the definition of a crime within*
16 *the meaning of Section 6 of Article XIII B of the California*
17 *Constitution.*

18
19
20 **All matter omitted in this version of the bill**
21 **appears in the bill as amended in the**
22 **Senate May 6, 2014. (JR11)**
23